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*Canadian Pensioners and Returned Soldiers  
Problems, Special Committee, 1936*

SESSION 1936

HOUSE OF COMMONS

SPECIAL COMMITTEE

ON

4432

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1

WEDNESDAY, APRIL 1, 1936

THURSDAY, APRIL 2, 1936

## WITNESSES:

General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League.

Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire Service League.

Mr. Richard Myers, Honorary Secretary of the Amputations' Association of the Great War.

Captain E. A. Baker, M.C., Secretary of the Sir Arthur Pearson Club for Blinded Sailors and Soldiers.

Captain Frank McDonough, Canadian Pensioners' Association.

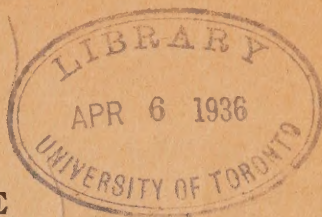
Mr. Richard Hale, representing the Tubercular Veterans' Association.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936







## MEMBERS OF THE COMMITTEE

Hon. C. G. POWER, *Chairman*

Mr. Beaubier	Mr. MacNeil
Mr. Betts	Mr. McLean ( <i>Melfort</i> )
Mr. Brooks	Mr. Marshall
Mr. Cameron ( <i>Hastings South</i> )	Mr. Mulock
Mr. Emmerson	Mr. Mutch
Sir Eugène Fiset	Hon. C. G. Power
Mr. Green	Mr. Quelch
Mr. Hamilton	Mr. Reid
Mr. Hartigan	Mr. Ross ( <i>Middlesex East</i> )
Mr. Isnor	Mr. Streight
Mr. Lapointe	Mr. Thorson
( <i>Matapedia-Matane</i> )	Mr. Tremblay
Mr. Lennard	Mr. Tucker
Mr. Macdonald ( <i>Brantford City</i> )	Mr. Wilton
Mr. MacLean ( <i>Prince</i> )	

J. P. DOYLE,  
*Clerk of the Committee.*



## ORDERS OF REFERENCE

MONDAY, March 16, 1936.

*Resolved*,—That a Special Committee be set up to which shall be referred such matters connected with pensions and returned soldiers' problems as the House may deem advisable and that Rule 65 be suspended in relation thereto; That the said Committee be empowered to send for persons, papers and records, to examine witnesses for evidence, to print such papers and evidence from day to day, as may be ordered by the Committee for the use of the Committee and members of the House, and to report from time to time. The Committee shall consist of the following members, to wit: Beaubier, Betts, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Isnor, Lapointe (*Matapedia-Matane*), Lennard, Macdonald (*Brantford City*), MacLean (*Prince*), MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Poole, Power, Reid, Ross (*Middlesex East*), Streight, Thorson, Tremblay, Tucker, Wilton.

Attest.

ARTHUR BEAUCHESNE,  
*Clerk of the House.*

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MONDAY, March 16, 1936.

*Ordered*,—That the name of Mr. Quelch be substituted for that of Mr. Poole on the said Committee.

Attest.

ARTHUR BEAUCHESNE,  
*Clerk of the House.*

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WEDNESDAY, April 1, 1936.

*Ordered*,—That the following Bills be referred to the said Committee:—

Bill No. 26, An Act to amend the Pension Act.

Bill No. 27, An Act to amend the War Veterans' Allowance Act.

Bill No. 28, an Act to assist towards the Employment of former Members of the Forces.

Attest.

ARTHUR BEAUCHESNE,  
*Clerk of the House.*

---

THURSDAY, April 2, 1936.

*Ordered*,—That the said Committee be granted leave to print from day to day, 1,500 copies in English and 300 copies in French of the proceedings and evidence taken before the Committee.

*Ordered*,—That the said Committee be granted leave to sit while the House is sitting.

*Ordered*,—That ten members of the said Committee shall constitute a quorum.

Attest.

ARTHUR BEAUCHESNE,  
*Clerk of the House.*

## REPORTS TO THE HOUSE

### FIRST REPORT

April 1, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems begs leave to present the following as a

### FIRST REPORT

Your Committee recommends,

- (1) That it be granted leave to print from day to day, 1,500 copies in English and 300 copies in French of the proceedings and evidence taken before the Committee;
- (2) That it be granted leave to sit while the House is sitting;
- (3) That ten Members shall constitute a quorum.

All of which is respectfully submitted.

C. G. POWER,  
*Chairman.*

(For concurrence see Votes and Proceedings, April 2, 1936.)



## MINUTES OF PROCEEDINGS

WEDNESDAY, April 1, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 10.30 o'clock, a.m.

The following members were present: Messrs. Beaubier, Betts, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hartigan, Isnor, Lapointe (*Matapedia-Matane*), Lennard, Macdonald (*Brantford City*), MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power, Quelch, Reid, Ross (*Middlesex East*), Streight, Thorson, Tremblay, Tucker and Wilton--26.

On nominations for Chairman being requested, Mr. Mulock moved, seconded by Mr. Reid, that Hon. C. G. Power be elected Chairman. There being no other nominations the motion was adopted unanimously. Hon. Mr. Power then took the Chair and thanked the Committee for the honour conferred on him.

Mr. Isnor moved, seconded by Mr. Cameron, that the Committee ask for leave to print from day to day, 1,500 copies in English and 300 copies in French, of the proceedings and evidence to be taken before the Committee. Motion adopted.

Mr. Thorson moved, seconded by Mr. Tucker, that ten members of the Committee constitute a quorum. Motion adopted.

Mr. Reid moved, seconded by Mr. Mulock, that the Committee ask for leave to sit while the House is sitting. Motion adopted.

Mr. Thorson moved, seconded by Mr. Tucker, that two subcommittees, consisting of five members each, be appointed by the Chairman; one to deal with correspondence and the other with Agenda. Motion adopted.

The Chairman stated that the Legion was prepared to have representatives appear before the Committee to-morrow.

Mr. Mulock moved, seconded by Mr. Tucker, that the Committee do now adjourn. The motion being carried, the Committee adjourned at 11 o'clock a.m. to meet again at the call of the Chair.

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THURSDAY, April 2, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 o'clock, a.m., Hon. C. G. Power, the Chairman, presided.

The following members were present: Messrs. Beaubier, Betts, Brooks, Cameron (*Hastings South*), Fiset (Sir Eugène), Green, Hamilton, Hartigan, Isnor, Lapointe (*Matapedia-Matane*), Macdonald (*Brantford City*), MacLean (*Prince*), MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), Thorson, Tremblay, and Tucker

In accordance with the motion passed yesterday, the Chairman appointed two subcommittees as follows:—

Agenda: Messrs. Green, Marshall, MacNeil, Macdonald (*Brantford City*), and Thorson. Mr. Thorson to act as convenor.

Correspondence: Messrs. Betts, Emmerson, Mulock, Quelch, and Tremblay. Mr. Mulock to act as convenor.

Mr. Mulock moved, seconded by Mr. Isnor, that Mr. McLean (*Melfort*) be Vice-Chairman. Motion adopted.

The Chairman stated that he had a letter from the Canadian Corps Association asking permission to make representation before the Committee, and also a similar request from the Amputations Association of the Great War, which he would give to the subcommittee.

General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League, was called, examined and retired.

Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire Service League, was called, examined and retired.

Mr. Richard Myers, Honourary Secretary of the Amputations' Association of the Great War, was called, examined and retired.

Captain E. A. Baker, M.C., Secretary of the Sir Arthur Pearson Club for Blinded Sailors and Soldiers, was called, examined and retired.

Captain Frank McDonough, Canadian Pensioners' Association, was called, examined and retired.

Mr. Richard Hale, representing the Tubercular Veterans' Association, was called, examined and retired.

On motion of Mr. Reid the Committee adjourned at 1.15 o'clock, p.m., until until Friday, April 3rd, at 11 o'clock, a.m.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

April 2, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman presiding.

The CHAIRMAN: Gentlemen, if you are ready we will get down to business. It was suggested yesterday that we should name a subcommittee on agenda. I suggest to you that that committee be composed of Messrs. Green, Marshall, MacNeill, Ross, Macdonald, and Thorson, and I will ask Mr. Thorson to act as convenor, if that is satisfactory.

(Carried.)

It was also suggested yesterday that a subcommittee on correspondence should be named, and I suggest the names of Messrs. Betts, Emmerson, Mulock, Quelch, and Tremblay, and I will ask Mr. Mulock to act as convenor.

(Carried.)

It is likely that I shall be absent from this committee at times, and it is customary to name a vice-chairman to act in the absence of the chairman. Whom will you nominate as vice-chairman, gentlemen?

Mr. MULOCK: I should like to nominate Mr. Malcolm McLean.

(Carried.)

The CHAIRMAN: Now, gentlemen, I have certain communications which should properly go to the committee on agenda, but I will give you the gist of them. This is a request from the Canadian Corps Association that they have the opportunity of sending two or three representatives to appear before this parliamentary committee. I will refer this to the agenda committee.

I also have a request—perhaps I had better read this telegram from Rev. Sydney E. Lambert, O.B.E. Dominion President, Amputations' Association of the Great War.

April 1, 1936.

Major C. G. POWER,  
Hon. Minister of Pensions and Chairman,  
Soldiers Parliamentary Committee, Ottawa, Ont.

Amputations Association of the Great War ask your committee earnest consideration for the widows of classes one to eleven these wonderful women who care for Canada's war disabled deserving of recognition for the worthy and courageous service they have rendered to our comrades. Stop Day by day our comrades pass away worrying about how their wives and children will be cared for six ex servicemen lying dead in Toronto tonight Canada's war disabled and widows are looking to your committee for help and security for the future regret I cannot be with you to press the claim of these post war heroes stop Widows amputations and blinded ex servicemen congratulate you as chairman of nineteen thirty-six committee God bless you sir in your great task.

Rev Sydney E Lambert OBE Dominion President  
Amputations Association of the Great War

I understand that the Amputations' Association is represented here in connection with the Canadian War Disability Pensioners' Association. Mr. F. E. T. Breakwell, secretary, has sent us a communication which deals with a number of things. They also request that they be heard largely in connection with, I think, order in council 91. However, I will send that to the committee.

The next order of business would be the hearing of witnesses, and if the committee are ready to hear General Ross I will ask him to take the stand.

GENERAL ALEXANDER ROSS, called.

*By the Chairman:*

Q. General Ross, you are Dominion President of the Canadian Legion of the British Empire Service League?—A. Yes.

Q. And you are being assisted in giving your evidence by Mr. Bowler, Dominion Secretary of the same organization?—A. Yes.

Q. And probably, General, you will tell us if you represent other soldier organizations also?—A. Yes. I am appearing as nominal chairman of a joint committee, and I will have Mr. Bowler, and Mr. Hale of our own organization, Captain Baker and Mr. Myers of the Amputations' Association and Captain Wilfred Parry of the Canadian Corps Association associated with me. We are endeavouring as far as possible, to make one presentation, and each of these organizations asks the right, if it so desires, to amplify anything that is presented or to make representations in regard to matters in which it may be particularly interested. Now, I am going to circulate this morning a memorandum that was prepared before this committee was set up. We have had a convention, and I prepared this memorandum in anticipation of some of the things that are now unnecessary, but it will serve as a guide to what I have to say and as a somewhat permanent record of what I am saying to you to-day. In addition to this blue brief I am also asking you to accept a copy of the submissions which we made to the Hyndman commission on unemployment; I am putting that before you because I want to give you the background of the case which we developed before that commission, and upon which they wrote the report. Those familiar with the report will remember that they definitely found that our submissions as set before them had been substantially proved by the evidence and the investigations which they had carried out. Therefore, for a thorough understanding of the report I suggest that we table the brief we used on that occasion, and that it might be considered.

It is not my desire to go into the unemployment question. You will notice that on this brief I have placed pensions first. That does not mean that we regard that as the problem of paramount importance at the present time; it simply happens to be there. In that regard, with your permission, I shall be ready to present our case next Monday, as we are bringing in our officers from western Canada who have peculiar problems to present.

To-day I should like to confine myself principally to the question of pensions and matters which are referred to in our brief. Since this brief was prepared, legislation has been brought down which introduces some new principles. These bills were available to us only yesterday afternoon, and I have not had time to thoroughly examine them and, therefore, we would not be prepared to adequately discuss them until, perhaps, to-morrow. But there are other matters with which we are prepared to go on; and with your permission I would like to enter upon them.

Now, with regard to pensions. We come before this committee in a somewhat different position than we have previously. Since the last committee sat, some six years ago, we have been working away quietly in an endeavour to improve the pensions situation; and as a result of meetings of one kind and

[General Alex. Ross.]



another I think we may say that we are satisfied—and I think it will also be common opinion—that there is really not so much wrong with the Pension Act as such, as it is a matter of administration and personnel. I think that the last change which was made in which an independent officer was brought in as a temporary measure has to a large degree established confidence in the way in which the commission is at present administered, and has eliminated a very large number of troubles which formerly distracted our attention.

We are, therefore, not desirous at this time of making any radical changes. There are some inequalities we would like to have wiped out; and we would like to discuss and have you investigate the possibility of further development along the lines of improving administration and, therefore, removing causes of complaint. I believe that this is vitally necessary in the development of the great problem which faces us—that is the problem of the unemployed, handicapped and disabled ex-serviceman.

Along with the unfortunate controversies which have developed through the years in regard to pensions, there has developed a rather unfortunate psychology—a psychology which, I may say, I have been endeavouring to break down—that is that the veteran does not receive a square deal. The cause of that very largely lies in difficulties which have developed in connection with pension administration, and if we conjointly can so devise ways and means whereby that constant cause of complaint may be permanently removed it will definitely clear the way for the development of sound schemes which will tend to remove from Canada any stigma of lack of care of the men who served in the line who are to-day facing a rather hopeless future. For my part may I say to you that our organizations are here as co-operative bodies; there is no desire at this time or at any other time to endeavour to ask from you anything to which we are not justly and reasonably entitled; and it is our desire at all times to be considered as working with the government of the day, with the parliament of the day, and in order to preserve peace and harmony in this great body of people, and to enable us to develop our problems and to solve them with the least amount of friction.

May I refer to the memorandum which I am submitting to you with regard to pensions. As I have indicated, there are some little matters which we are not prepared to discuss at the moment, such as changes in principle which have been introduced in the legislation before us. This legislation also incorporates some of the measures which we have asked for in this brief; but, as I understand, the final form of this legislation will depend upon the report of this committee. Consequently, we would like the opportunity of making our observations in support of what is proposed where we are all agreed. There are also three or four other matters which we feel should be dealt with by this committee, and we would like an opportunity of submitting them to you at this time before we proceed to the major issues.

The first one is the definition of “improper conduct.” The new bill, as I read it, is intended to remove the effect of the Appeal Court judgment. I do not know whether the committee wishes an explanation, but Mr. Bowler has the facts.

MR. J. R. BOWLER, called.

*By the Chairman:*

Q. Proceed Mr. Bowler.—A. Mr. Chairman, the first page of the submission by General Ross which you have under the heading Pensions, subsection 1, recommending an amendment to section 2(h) of the Pension Act deals with the definition of “improper conduct” so as to exclude from the definition cases of non-intentional self-inflicted injuries. Section 12 of the Pension Act makes it clear that no pension can be awarded when the death or disability was

due to improper conduct as herein defined. Section 2(h)—that is the interpretation section—defines “improper conduct” as follows: “‘Improper conduct’ includes wilful disobedience of orders, self-inflicted wounding and vicious or criminal conduct.”

Now our understanding of the practice with regard to the meaning of “self-inflicted wounding” from the inspection of the Pension Act until comparatively recently was that a self-inflicted wounding did not come within the definition of “improper conduct” unless it was wilful, and with intent to avoid military duty. That was our understanding of the practice which, we believe, was in effect for more than twelve years.

Q. May I interrupt to ask if you have inquired from the military authorities what is generally accepted as the definition of “self-inflicted wounding”?—A. I think it is set out in detail in the judgment of the Appeal Court, a copy of which will be presented to this committee. It appears at great length in the report.

Q. Was it followed by the judgment of the court?

GENERAL ROSS: They held that the Act restricted them to find all forms of self-inflicted wounding as being misconduct, even though it was not so regarded by military authorities in the same degree.

*By the Chairman:*

Q. Will you proceed, Mr. Bowler?—A. In any event, in 1934 a test case was taken to the Pension Appeal Board to ascertain whether a non-intentional self-inflicted wounding, although, perhaps, due to negligence, did come within the meaning of “improper conduct.” The court in their judgment—Mr. Justice Hyndman dissenting—found that such was the case; that non-intentional self-inflicted wounding did constitute improper conduct within the meaning of the definition. That being contrary to our understanding of the practice over many years, we at once made representation to the government for remedial legislation; and that is the reason it appears in the submission you have before you.

Q. Do you remember the details of the case? Have you got a concrete case? If you could give it to us briefly we would have a better understanding of the implications in this judgment?—A. I have a case in point. Perhaps I had better leave the name out. I will give the regimental number which is 192004. The particulars are outlined at the beginning of the judgment by Mr. Justice Hyndman, president of the court. The disability of the individual in question was . . . “gunshot wound with amputation of part of the right index finger. In his evidence he stated that he proceeded to France with the 116th battalion in January, 1917, with ‘B’ Company Headquarters Staff in the Quartermaster’s stores and served as assistant quartermaster until after the Passchendaele engagement. He was then sent on a three months’ Armourer Corporal Course and on his return was assigned duties as Armourer Corporal to ‘A’ Company. On or about the 3rd of July, 1918, he was ordered to proceed to the front line trenches for the purpose of inspecting ‘A’ Company’s rifles. About dusk, while inspecting rifles on one of the bays, and while seated on the fire step inspecting the rifles a number of rifles leaning against the parapet commenced to fall towards him on his right side. He instinctively put up his hand to save himself and in some manner which he could not explain, one of the rifles was discharged, blowing off the top of his finger. His wound was dressed by a company stretcher-bearer who took him to the battalion dressing station and he was evacuated to No. 4 hospital at Camiers. After discharge from hospital, he was sent to the Canadian Infantry Base at Etaples, and while there a court of inquiry was held, the result of which was he was reprimanded for being negligent in the performance of his duties and no further action was taken. His corporal stripes were not taken away and he was not reduced in rank. Some weeks following the court of inquiry, he was made acting sergeant

[Mr. J. R. Bowler.]



without pay and assisted the Armourer at the base at Etaples and also did some conducting duty. He was discharged from the service about the end of February, 1919, medically unfit with a good character. He was pensioned for his disability until August, 1920, when he received a gratuity. Pension was subsequently reinstated in 1930.

After a careful review of the evidence and the documents on file, the Quorum feel that as he was not punished by the court martial but only reprimanded and was not prosecuted for criminal negligence or for self-inflicted wound that he should receive his pension. Decision is that G.S.W. resulting in amputation of part of right index finger was incurred during service."

I think that is a fair outline. The point is that the question of wilful self-wounding never arose in this case; it was self-wounding due to negligence.

SIR EUGÈNE Fiset: Are we considering the bill at the same time we are considering these reports?

THE CHAIRMAN: These are representations made by the soldier bodies, and it so happens that they coincide with the bill, but I do not think it is likely that they will as we go on. As General Ross has pointed out, there are some representations which they have to make in connection with the bill and which they will make later on.

*By the Chairman:*

Q. There were four other cases which came before the appeal court and were simply thrown out on the ground that they were similar cases, and judgment had already been given?—A. I was going to add that I notice that a provision in pursuance of this recommendation is in the new bill, but it would seem necessary to make it retroactive in some way to protect those cases which were denied by the Appeal Court.

Q. If you will make recommendations along that line they will be considered by the committee?—A. Might these be considered as representations now?

MR. MACNEIL: Has Mr. Bowler taken into consideration those cases where self-inflicted wounding was accompanied by mental or moral breakdown or shell shock, where there has been compassionate ground.

THE CHAIRMAN: I do not know whether there has been any presentation on that.

WITNESS: I do not think so. We take the position that self-inflicted wounding, unless wilful intent were found and proved, does not come within the definition of misconduct.

THE CHAIRMAN: I think Mr. MacNeil is referring to a general order issued some time in 1917 or 1918 to the effect that shell shock was considered a self-inflicted wound from the army standpoint.

MR. MACNEIL: Yes, and also in some cases a man suffering from extreme nervous strain, a breakdown to his mental stamina might be regarded as self-inflicted wounding in order to escape duty. In that event their mental condition might be considered and should be considered.

GENERAL ROSS: I should imagine this would cover that. If a man was mentally unbalanced his act would not be wilful, would it?

THE CHAIRMAN: There is something in that. I have a dim recollection of some army order in 1917, or the latter part of 1916. Mr. MacNeil will remember, I think, that one witness before the 1919 committee or the 1921 committee stated that the army order was to that effect that anybody who suffered from what we called shell shock was to be classed as one who had been guilty of self-inflicted wounding. Do you remember that, Mr. MacNeil?

MR. MACNEIL: Not distinctly?

GENERAL ROSS: I have never heard it before.

The CHAIRMAN: It seems to me that was in the evidence of some of the witnesses who appeared before the committee either in 1919 or 1921.

GENERAL ROSS: There was some consideration in regard to trench feet, but I do not remember shell shock.

The CHAIRMAN: The Legion might care to look into that.

Mr. Mutch: It was trench feet.

The CHAIRMAN: I think there was an order in regard to shell shock.

GENERAL ROSS: The next question is an amendment. We suggest that in the amendment of 1933 where a limit was put on marriages and subsequent births, it was made to include housekeepers. I will ask Mr. Bowler to explain the circumstances and the cases which have arisen. This is not in the bill; this is new.

WITNESS: Perhaps members of the committee are aware that the Pension Act, since its inception, has provided that when a pensioner married he would receive additional allowances for his wife and, under certain circumstances, a pensioner who was also a widower with children could receive what are termed housekeeper's allowances. Those rights existed without impairment until the 1st of May, 1933. At that time an amendment was passed, the intention of which—I speak of the intention as it is understood by the Canadian Legion—was that after that date no wives acquired after that date or children born after that date would be eligible to receive allowances. In other words, no claimant coming under these two headings, (1) a wife, (2) a housekeeper, originating after the 1st of May, 1933, would receive recognition. Perhaps I should explain there that the original understanding applied to wives and children only. At a later date it was suggested to us that it would not be equitable to remove certain rights in regard to wives and yet permit similar rights to remain in regard to housekeepers. On the face of it that seemed to be a fair contention, and the suggestion was agreed to.

Now, the section in point in the amendment to which I refer appears at the very end of the Pension Act under section 19. That is the consolidated Pension Act. No doubt members of the committee have a copy of it. With your permission, Mr. Chairman, I will read from section 19:—

Section 19: Notwithstanding anything contained in this or any other act no pension or additional pension awarded or payable under the provisions of this Act shall be awarded or paid,—

- (1) under Schedule A or Schedule B of this Act, to or in respect of,—
- (a) any child of a member of the forces or pensioner, if such child shall have been born on or after the first day of May, 1933;
- (b) the daughter, or other person who, on the death of the wife of a pensioner or on the death of a widow of a member of the forces who has been in receipt of a pension, shall have assumed the household duties, and care of the minor child or children of the pensioner or widow, as the case may be, on or after the date aforementioned.

That is referred to generally as the housekeeper clause. And then sub-section 2 of Schedule A:—

- (2) under Schedule A of this Act, to or in respect to the wife of a member of the forces or a pensioner, if she shall have been married to him on or after the date aforementioned.

Shortly after that was passed a question was raised which had not been foreseen; although in the light of developments perhaps it ought to have been foreseen. The question was raised as to a pensioner who had a housekeeper for whom he was receiving allowances prior to the 1st of May, 1933, and who for reasons beyond his control, left. Perhaps the housekeeper died, or married, or

[Mr. J. R. Bowler.]



something of that kind happened; anyway, she left. His circumstances were precisely the same, and he engaged a new housekeeper after the 1st of May, 1933. The question arose as to whether under this amendment the new housekeeper being only a different person—allowances should be paid on her behalf. Now, it was the Legion's understanding that once entitlement had been established the name of the housekeeper did not matter. On a reference to the courts it was found that the language used was such that it did not permit of the housekeeper's allowance being paid under the circumstances which I have outlined.

*By Mr. McDonald:*

Q. I suppose if he married his housekeeper after that date the allowance would stop?—A. I think it would.

*By Mr. Mulock:*

Q. There has been trouble in numerous cases on account of the decisions made in these illegal marriage cases, so-called, where there were divorces obtained in the States, and one thing and another, and pensioners have been cut off. Is it your opinion that if your change went through in the case of these people who have been declared illegally married, the wives would be entitled then to come under the housekeeper provision?—A. No, sir. I think the question you raise has no bearing whatever on our recommendation.

Mr. MULOCK: She might be considered his housekeeper.

The CHAIRMAN: It is possible.

Mr. MULOCK: Especially if she was there before.

The CHAIRMAN: It might apply, if the pensioner happened to have children of whom she was in charge. They might recognize that position if he called her a housekeeper.

Mr. MULOCK: Absolutely.

The CHAIRMAN: That is the only case, I imagine, and there are very few of those cases.

Mr. BOWLER: If he did it before the 1st of May, 1933.

*By Mr. Mulock:*

Q. If, before the illegal marriage, she was in charge of the children can she qualify as a housekeeper?—A. That would be a matter for the commission to decide. She would be eligible to qualify.

*By Mr. McDonald:*

Q. She could not qualify as a housekeeper if he had a wife at the same time?—A. No.

*By Mr. Hamilton:*

Q. In the case where a man was married but lost his wife—married prior to May 1st, 1933—surely he should be entitled to some allowance if he marries again?—A. I was coming to that point now. The recommendation also includes that where entitlement in regard to a wife was established and granted prior to the 1st of May, 1933, and then if subsequently his wife dies and he remarries the pensioner should be entitled to the same allowance he received before.

Mr. McDONALD: It seems to me we differentiate between the man who is entitled to a pension prior to 1933 and one who marries after 1933, and who is just as much entitled to a pension.

GENERAL ROSS: Perhaps I can answer that. Your point is very well taken. This class has been the subject of a great deal of controversy. At the time this

legislation was enacted certain things were proposed which we thought would be prejudicial to the interests of returned soldiers, and in order to secure a withdrawal of that we made an agreement that this section would be accepted as a measure of economy. We have taken the position that we made an agreement at that time, and that we are not now in a position to recede from that agreement. We feel that in many respects it is unjust, but we agreed to it. We made the bargain and now we feel that we cannot go back on it. I do not want you to have any misconception of our position. It is manifestly unfair that a man who is married and has a family, and has an entitlement in respect to his family, should be deprived of it just because his wife dies. He cannot look after his children himself. He has to have someone to look after them. We suggest this: If you think it is unfair, and that it should be corrected, it is in the hands of your committee. If you think a hardship is caused by the existing provision—and we feel that there is hardship—you can consider its removal. Our position is simply that we made an agreement by way of settlement of the matter and we do not feel that we should go back on it.

*By Mr. McDonald (To General Ross)*

Q. Is the Legion satisfied that no allowance should be made for children born after this date in 1933?—A. I say in regard to that, that we are standing by our agreement. It is in the hands of the committee. If they feel so disposed it can be rectified.

Q. Why did they fix on that date, 1st of May, 1933?—A. Because that is the date on which the Act went through. I might say that I believe there was a mistake there. I think in legislation of that kind it is most unfortunate to have allowances cut off so abruptly. I think it should be borne in mind that some notice should be given to the pensioners concerned. We know of many cases in which marriages had been arranged for to take place at a later date and the allowances were arbitrarily cut off by this legislation.

Q. Would not the cost involved be less in the case where a man marries at a much later date, than in the case where he marries before this date in 1933?—A. That might well be. A very learned member of my bar said something which has a very strong appeal to me; that if a man married without a pension his wife ought to divorce him.

The CHAIRMAN: The trend of legislation today, however, is to tax bachelors.

Mr. HAMILTON: I think the point which has been raised is well taken. After a man loses his wife he still needs someone to look after his children. His need is just as great as that of a man who became pensionable before the cut-off date.

SIR EUGENE Fiset: I recall that this subject was discussed in 1933. The reason given at that time was that as the children became older the need for a housekeeper was not so great, and the need for the pension was less. I believe that was the reason given at the time.

GENERAL ROSS: We have had a great many cases brought to our attention which are affected by this legislation.

Mr. BETTS: I should like to move, Mr. Chairman, that the Act be amended in that respect.

The CHAIRMAN: Do you not think, Mr. Betts, that it would be better for us to hear all the representations before we consider amendments to the Act? We can consider amendments to the Act at a later stage. The usual procedure has been to hear the representations first and then we can discuss the bill which will be brought down to the House. Unless we do it that way I am afraid we will not get anywhere.

[Mr. J. R. Bowler.]



*By Mr. Hamilton (To General Ross):*

Q. Was there any reason given for taking the 1st of May, 1933, as the cut-off date?—A. It was at that time that the matter arose for decision as the house was about to adjourn, and this agreement was very hastily made. That accounts for this legislation being introduced this present year, so far as we are concerned. I do not know why they took the 1st of May, 1933, except for the fact that the bill dates as from that time. It was necessary to have some cut-off date, but in our opinion the way it was done worked a hardship in a great many cases.

Q. Do I understand that the change was made largely on the grounds of economy?—A. The change was made originally on the grounds of economy. It was at that time that the question came up respecting the matter of taking a man's pension into consideration in arriving at the amount of salary he should receive. We felt that this involved a pernicious principle, one which constituted a serious threat to the pensioner and under which he would be very severely penalized. In order to get the matter settled we agreed to this concession, considering it the lesser of two evils. In doing that perhaps we were wrong, but in doing it we did what we thought at the time was right.

*By Mr. Betts:*

Q. I suppose the government wanted to discourage pensioners from having too much income tax to pay?—A. I do not know about that.

The CHAIRMAN: Perhaps there is some misunderstanding. I do not know who ever suggested that pensions should be subject to income tax. I do know that that is still a part of our legislation, and I also know that pensions were not subject to income tax prior to 1933.

*By Mr. Betts:*

Q. It did not really help the pensioners?—A. We thought it did not.

The CHAIRMAN: My recollection is that something like \$40,000 was collected from pensioners by way of income tax. My information is that Imperial pensioners do not pay any income tax, except those who draw a pension from the Canadian government. However, if it is desired, we can go into that at a later stage, and I will be glad to furnish any information available which the committee may desire.

GENERAL ROSS: I think one of our associates wants to make representations with respect to that.

Mr. MACNEIL: Have representations been made under this section in respect to wives whose legal status has been questioned? I refer to those cases in which a divorce has been obtained in the United States and who were married prior to 1933, cases of men who were married prior to 1933 and who losing their wives subsequently remarried and had their pensions cut off.

The CHAIRMAN: Might I make this suggestion: that is a pretty broad question, changing the marriage clause. I think we will probably have to take some time and go into all these marriage cases and have a statement brought by the chairman of the Pensions Board. Perhaps he would be willing to come here. I do not know. We could ask him to come here and tell us just what disposal has been made of these cases. We might have special witnesses on that. If that is satisfactory, Mr. MacNeil, we will go into that later on; as long as we bear in mind that we must discuss these marriage cases fully. Is that all right?

Mr. MACNEIL: Yes.

Mr. BETTS: Has the Legion in mind a particular wording for the changes they propose in the Act?

GENERAL ROSS: No; sir; but we will be glad to co-operate with the committee, if the committee ask us to do so.

The CHAIRMAN: Thank you.

GENERAL ROSS: The next section is one of those matters with respect to which our opinions agree. The new bill contains the provision we seek. However, we wish to make some observations with respect to it and we would like you to hear both Captain Baker and Mr. Myers who are particularly interested in this problem. This is one of the things in which they are very greatly interested. I can tell you this much about this matter of removing the time limitation of ten years in the case of widows of pensioners in classes 1 to 5; that is, the 80 per cent to 100 per cent disability: In the original pension Act it was provided that if a pensioner in these classes died—that is, from 80 per cent to 100 per cent disability—within five years, his widow would as a matter of right receive a pension forthwith. The principle, I presume, being that a man who was so seriously disabled would be very likely to die of his injuries. Subsequently this was extended to ten years. This extension in some measure meets the principle we set out. We feel in the light of experience that it would be only right that this should be entirely removed. There are cases, of course, in which a 100 per cent disabled man has been able to make provision for his family, but the great majority of them have been unable to do so, particularly because of the fact that in most cases they have little opportunity for employment. In such cases, where the pension is cut off leaving a wife and family without income a very tragic situation develops. There is hardship in cases such as these, where a man has been so seriously disabled as to be entitled to a pension of 80 per cent or more, when the income stops at his death and his wife and children are left in poverty or dependent on charity. For these reasons we ask that the committee will give sympathetic consideration to these proposals. I will ask Captain Baker and Mr. Myers to present our submission in this respect.

The CHAIRMAN: I may be wrong, General Ross, but my recollection of it is that in 1919 the time laid down as the dead line on this particular class was three years. As the result of the Colonel Ralston commission of 1924 and 1925 it was extended to five years. Either in the committee of 1924 or 1925; or in the committee of 1928, it was extended to ten years. However, we can check that up. Possibly someone could give us the complete history of that.

Mr. BOWLER: I think that is approximately correct.

GENERAL ROSS: I will now ask Captain Baker and Mr. Myers to come forward.

RICHARD MYERS, Honorary Secretary of the Amputations' Association of the Great War; and

CAPT. E. A. BAKER, M.C., Secretary of the Sir Arthur Pearson Club for Blinded Sailors and Soldiers, called.

Mr. MYERS: I would much prefer that Capt. Baker preceded me, because I feel that he should have some precedence in this matter. However, at his request, I am to precede him in our presentation. May I first, however, on our appearance before you to-day express our grateful appreciation to this committee, and our feeling of gratefulness that this committee has been set up. The matters that we have under consideration at this time have been the subject of discussion at our national conventions for a period of years. They have come up again and again each year for airing. They have requested that we bring certain matters to your attention. We approach this matter with a sense of deep gratitude because of the fact that incorporated in this bill is this particular section, one which is of vital importance to the welfare of blinded soldiers and seriously disabled ex-service men.

[Mr. Richard Myers.]



SUBMISSION TO THE PARLIAMENTARY COMMITTEE ON SOLDIERS' PROBLEMS ON  
BEHALF OF THE AMPUTATIONS' ASSOCIATION OF THE GREAT WAR

*Subject: Widows' Pensions, Sec. 32 (2) of the Canadian Pension Act.*

Bill No. 26, being an Act to amend the Pension Act of Canada, is before you. Section 18, page 11, of this Bill deals with the elimination of the time limit of ten years affecting the right of widows of pensioners in Classes 1 to 5, that is 80 per cent to 100 per cent pension, to pension in case of death of the pensioners from any cause not directly related to the pensioners' disabilities.

On behalf of seriously disabled pensioners and, particularly, amputations and blinded soldiers, we now desire to comment, especially on the necessity of consideration for the widows of pensioners not only in Classes 1 to 5, but from there down to and including Class 11, that is 50 per cent:—

(1) Pensioners disabled to the extent of 50 per cent or more must perforce be in the seriously disabled class and, as such, have strictly limited opportunities of materially supplementing pension income and of making provision for the future of their families.

(2) It has been definitely established that, generally speaking, it has been impossible to establish the direct relationship between war-time injuries and premature deaths of pensioners in this group.

(3) It is recognized that deaths of seriously disabled pensioners in this group, whose entitlement has been established for disabling conditions other than gunshot wounds, in most cases are related to pensionable conditions and, therefore, the widows are pensionable on the basis of entitlement. Facilities of the Canadian Pension Commission are very properly utilized in establishing these claims. However, the facilities of the Commission cannot overcome the difficulties of relating the loss of limb or eyesight due to gunshot wounds to death. This condition was anticipated at the end of the War when Section 32 (2) was created to meet a situation then foreseen. However, the provision of Section 32 (2) was restricted by the inclusion of a qualifying phrase which limited its application for death from other than pensionable conditions to those who had been in receipt of 80 per cent pension or more for not more than ten years.

We submit:

1. That the ten year limitation should be eliminated as suggested in Section 18 of Bill No. 26 now before you;
2. That this Section should include pensioners seriously disabled to the extent of 50 per cent or more.

We have reason to believe that the operation of the present Section 32 (2) of the Pension Act has been responsible for denying pension to not more than thirty (30) widows and that, for the remainder of the group, the outstanding number could be readily ascertained.

We also recognize the time, effort and administration costs involved in investigation of the potential claims of all widows as to entitlement.

The extension of pension provision to cover the cases of widows of pensioners who were in receipt of 50% or more pension would still result in an annual saving in the future for the following reasons:

1. Adjudication costs for injury cases principally affected would be largely eliminated.
2. Pensions to all widows of pensioners who were in receipt of more than 60 per cent pension would be substantially less than payments of pension to the pensioners prior to death.
3. Pensions to the widows of pensioners who were in receipt of 60 per cent would cost no more than pensions paid to the pensioners prior to death.

4. The small increase in pensions to widows of pensioners who were in receipt of 50 per cent or 55 per cent prior to death would be more than offset by the saving on the higher pension rating.

5. It is generally conceded that the wives of seriously disabled pensioners are subject to greater strain and premature aging by reason of the extra care, responsibility and worry, tending to death at an earlier age. Such widows surely deserve consideration for the care which they for a long period of years have given to the men who were seriously disabled in the country's service.

In making this submission, may we be permitted to call your attention to the fact that on the death of practically every seriously disabled pensioner tragedy enters the home a second time when the widow, contrary to a family belief and public opinion, is informed that she is not due to receive pension because death could not be proven due to gunshot or shrapnel wounds from which her husband suffered. Actually the granting of this request would simply constitute a waiver of any effort to save money by the premature death of a seriously disabled pensioner who suffered disability in the country's service at the expense of his widow.

All of which is respectfully submitted.

#### AMPUTATIONS' ASSOCIATION OF THE GREAT WAR

That, Mr. Chairman, is our submission, briefly put. May I submit that what we are asking for at the moment is that the figure in the present bill which reads, 80 per cent, should be reduced to 50 per cent; because the majority of cases in that group in any event become entitled to pension, either through entitlement granted in the ordinary course of events as being related to service by the Pension Commission, or by the process of pension facilities, by way of pension machinery. Now, most come in there. Not all the cases have got in. It seems very strange. It was never intended that way. It seems impossible medically to relate a war wound such as the loss of a limb or limbs, or eyesight, to a stomach condition, or a nervous condition, or a heart condition which may have resulted in death. The result of that is that you have this group of ex-service men in this category—amputations and blinded soldiers—who unfortunately have been denied a pension. I venture to say that in the 27 cases that will be affected by the suggested change that you will actually find a heavy proportion of blinded soldier cases and amputation cases of the higher category. Now, all amputations do not receive an 80 per cent pension; or, under our present pension scheme the majority of these cases actually receive from 50 per cent to 80 per cent; although, in the double amputations, the triple amputations and the quadruple amputations, these naturally come under the 100 per cent group. Therefore, there is a very small proportion of the large number of amputation cases which are in the partial pension group. I think that can be absolutely proved, Mr. Chairman, and if I might be permitted to I would like to cite a case or two which might be drawn to your attention at this moment.

Q. You mentioned two cases. In one the man's death would be related to war services and his widow would automatically receive pension; and then you mentioned another class that you say would receive it by virtue of pension machinery; what class is that?—A. Exactly the same class. What actually happens is this: when a pensioner dies the question immediately arises in the commission as to whether the widow is entitled to pension by reason of whether the man died as the result of his disability. That might be an automatic matter in the case of, possibly, the heart. Many of these types of cases—the heart, the stomach or tuberculosis—he may die as the result of a disability, and there is no question; the commission does not raise any question. In that group again there may be some doubt in certain cases. The facilities of the Legion make it possible for you to go and prepare your case to bring into effect the benefit of

[Mr. Richard Myers.]



any provision under the Act that might operate in the man's favour. Now, in the case of gunshot wound you may argue from now until doomsday trying to relate the loss of a leg or the loss of sight due to gunshot wound to a stomach condition or some other condition if you like. That is absolutely impossible; and in most cases they cannot get in.

*By Mr. Reid:*

Q. What did you say about the number 27?—A. I say there are 27—well, I think there are under 30, it may be 27 in classes 1 to 5 that would be automatically admitted by reason of this suggested amendment to the Act. I do not know how many cases would be automatically admitted by an amendment in regard to classes 1 to 11, but proportionately it would work out. Exactly what the number would be I do not know, but I believe it can be readily ascertained.

*By Mr. Quelch:*

Q. In determining the cause of a pensioner's death is the evidence of the doctor attending at the time of his death taken into consideration, or is that considered conclusive evidence?—A. Would you repeat that?

Q. Suppose that at the time that pensioner dies the evidence of the doctor attending him states that the cause of his death is through war disability, would that be accepted as evidence?—A. Usually what governs is the death certificate. If the death certificate says progressive muscular atrophy and the man was pensioned for that I do not think for one moment that the commission would raise a question when upon examination of the file they saw that the relationship was there and the usual safeguards were put into effect. I do not think there would be any question at all.

Q. I mentioned it because I had a 70 per cent pensioner and the evidence submitted by two local doctors who had been attending him for two years stated that death was the result of war disability and yet he had not been receiving a pension?—A. I do not know the circumstances of the case, and I would not care to go into the merits of it; but it would appear now that what actually happens is that the claim had not been established as far as the commission is concerned and it was in the process of adjudication through pension machinery at the moment.

General Ross: It may be taken that in the form you mention it is not accepted by the commission as conclusive evidence.

Mr. MULOCK: No, it is not. I have a case exactly the same as that.

The CHAIRMAN: We will now call upon Captain Baker.

Captain E. A. BAKER, called.

*By the Chairman:*

Q. Will you proceed, Captain Baker?—A. Mr. Chairman and gentlemen, may I express appreciation for your kindness in permitting us to appear before you in association with representatives of the Canadian Legion, the Amputations Association, the representatives of the Army and Navy Veterans of Canada, the Canadian Pensioners of Canada, and the Canadian Corps Association, from whom you will undoubtedly hear later on. I do not wish to take up much of your time this morning. I am very deeply concerned about these widows. Of course, personally, I do not feel qualified to speak in the way that the president of our Amputations Association, Captain the Rev. Sydney E. Lambert, could, because he has more in the way of direct personal experience. He is engaged to-day in conducting several funerals in Toronto, and that is why he is not able to be with us here, and he says that these men die day by day and it is one of his rather painful duties to discuss affairs with the widows and to inform them, as has been stated in this submission, that in all probability they may

not be able to establish pension. I have seen a number of cases in which I have felt that the widows were more than due for any pension which this country might be able to afford them in view of the services they have rendered to the men they have taken care of over a long period of years. I have in mind at the moment two cases: one illustrating the blinded soldier, and this was the case of Sergeant J. H. Davies, who had an excellent war record and a serious wound which caused total loss of sight and affected his health to some extent afterwards. He married and had one boy and settled down in Canada, and then in about 1930, in the spring, he proceeded to England with his wife and boy to visit relatives there. He had not been feeling very well, and his condition had not been diagnosed. Upon arrival in England his condition became more serious, and then it was diagnosed as cancer of the abdomen. The condition progressed and he was operated on twice. That little woman looked after that man in their apartment and cared for him day and night, doing everything for him; and at the end of two years he died in horrible agony at the age of thirty-four. That woman suffered a complete nervous breakdown. To-day she is back in Toronto with her son trying to carry on; but she could not establish the right to pension because you can readily understand that cancer could not be related to a crack in the face.

The other case I have in mind is that of a man named Dunn. He received rather a serious wound overseas as the result of which he lost one leg and the other was seriously injured and he had stomach trouble. By a process of several major operations and heaven knows how many minor ones his life was prolonged in and out of hospital and, finally, the last operation prolonged his life just over the ten-year limit, and he died. Finally the cause of death was ascribed, if I remember correctly, to some weakness in his brain, possibly a congenital condition or a hemorrhage and not related to service. Therefore, being out on his ten-year limit and being out on the grounds of entitlement by reason of lack of relationship between his service wounds and the cause of his death the widow gets no pension.

Q. Was he an 80 per cent pensioner?—A. No, just under 80 per cent. I do feel, Mr. Chairman, that this question which is now before you deserves your very earnest consideration. After all, we do not want to come before parliamentary committees year in and year out and continually raise this question. This question, I know, has been up for quite a long period, but we have not pressed it too much because we do not want to seem to be demanding too much; but I do feel it is worthy of your consideration; and in making the suggestion which we do—the extension of that clause which you have already included in bill 26 to include this further group down to and including the 50 per cent pensioner—we feel that there is justification or we would not make this request of you. I thank you.

*By Mr. MacNeil:*

Q. The first case cited was the pensioner over 80 per cent and married prior to the 1st of January, 1930?—A. Yes, this was about ten years old—on the ground that his death occurred more than ten years from the date of pension at 80 per cent or more, and, on the other hand, because no direct relationship could be established between the cancer condition of the stomach and the service wound which caused his loss of sight.

Mr. MYERS, recalled.

*By the Chairman:*

Q. Would his case be covered by this amendment?—A. It would, sir. He is looked after by the amendment.

Q. He is looked after under the amendment to the bill.

[Mr. Richard Myers.]



*By Sir Eugene Fiset:*

Q. Have you any idea as to the number of cases that would be affected and to what extent retroactive effect will have to be given to the bill if it passes?—A. We do know that the group coming in by reason of this present suggested amendment, if it goes through, numbers only twenty-seven.

*By the Chairman:*

Q. That is as to 80 per cent only. The request now before us is to go down to 50 per cent?—A. Exactly.

*By Mr. Macdonald:*

Q. Could you tell us what percentage is paid for the various amputation cases, Mr. Myers?—A. Yes, sir. The percentages paid for amputations—what we call an amputation is a major amputation such as the loss of a limb or limbs—for instance, membership in the Amps. association cannot be obtained because of the amputation of a finger, one has to have lost a limb or limbs to get in—that is what we call an amputation and they range generally probably in 99 per cent of the cases from 50 per cent to 100 per cent.

*By the Chairman:*

Q. I understand that there is a table of disabilities laid down which has been in effect for ten years or more?—A. Yes, there has been a table of disabilities in effect which came into effect with the Pension Act with respect to ratings that are paid to the various disabilities, and in amputation cases they are particularly mentioned, in their various groups.

MR. TUCKER: Your suggestion of 50 per cent would practically take in all major amputation cases?

WITNESS: Yes, all major amputation cases.

*By Mr. Mulock:*

Q. Could you find out how many there are in that class altogether under that proposed amendment?—A. I will give you these figures. According to the last departmental report dated March 31, 1935, on page 52, you will find the statement of the number of disability pensions in force as at March 31, 1935, classified under schedule A of the Pension Act, also indicating where pensionable disability originated. Now, in the group of men whose disability originated in France there were in class 1 to 5 and there are in existence at this day pensioners to the number of 5,046; the number of pensioners from class 5 to class 11, originating in France, to-day is 9,323. Now, there are 27 that are actually coming in in that group up above, and there should be a proportionate increase in the number coming in in the group below. It may be that the proportion may be very rapid.

*By the Chairman:*

Q. Much higher?—A. Yes.

Q. Oh, yes.—A. Much higher. But that is the only basis upon which we can figure at all. Is that an answer to your question?

*By Mr. Mulock:*

Q. It gives a better idea. Would the department have that information?—A. Yes.

Q. I understand the ten year class did not apply to those between 50 per cent and 80 per cent?—A. No. We are not asking for a new class; we are asking for the extension of the principle.

Mr. CAMERON: A considerable percentage of the men may have been killed in motor accidents.

The CHAIRMAN: Those are the cases it is proposed to bring in.

WITNESS: Your amendment would undoubtedly bring in those cases. There would be, of course, a very few cases of that type that would arise. It would not cost you or the country any more money actually because they are all paid. If that man is a married man, he is already being paid \$60 a month. We are asking that the country waive any benefit that it might receive by way of premature death.

Mr. MACDONALD: What would they pay the widow?

WITNESS: Nothing; but under our suggestion they would pay \$60.

Mr. A. E. MACLEAN: Have you figures of the cost to the government or the pension board if that applied to all pensioners?

WITNESS: I do not know what the actual cost would be.

*By Mr. Mulock:*

Q. I understand that that would just continue until she was remarried?—A. Quite so.

Q. Are there any members of the Amputations Association listed at less than 60 per cent?—A. The Symes amputation. You can define it. It is a major operation on the foot just about the ankle—those that are in that category, and there are in the country probably seven or eight of those cases all told.

*By Sir Eugene Fiset:*

Q. The country is already paying the full amount to the pensioner while living; once he is dead the country does not pay to his widow in those classes from 5 to 11?—A. That is right.

Q. And, of course, the country will have to pay the full pension to the widow in those classes?—A. Yes.

Q. Therefore, there is expense involved, and it seems to me it would be very advisable if the Legion tried to obtain for the committee a synopsis showing the number, including 9,000 in your classification that are receiving pension at the present time. If you knew the number that are married it seems to me we will have a chance to arrive at an approximate number and even, perhaps, at an approximate cost?—A. I think that the department already has that information.

Q. You are preparing the case. It would be advisable for you to obtain from the department whatever information they have and to submit it to the committee for our consideration?—A. I shall be glad to do that.

Mr. HARTIGAN: That is taking into account the cost. I do not think we should be actuated so much by the cost in these cases as by the principle. If these cases are entitled to pension—entitled to the amount of money to be paid to those widows—we should not be so much concerned with the cost if the principle is right. From my standpoint there is another thing that we have not taken into account with regard to the returned soldier and that is the lapse of time. I think we should put ourselves in the position to realize that twenty years has elapsed since the war; that these men went through great distress; they put up with inconveniences and with conditions which, perhaps, no civilian has ever had to put up with and never will. I appeared before the Pension Board on many occasions, and I always took that position when appearing to establish communication between the cause of death of a man and his war disability. The Pension Board never took into consideration the lapse of time, age, the wear and tear and mental anguish that that man suffered from the time he was discharged until his death occurred. I have a number of cases where a

[Mr. Richard Myers.]



man died before the Pension Board gave a ruling and his wife and children received nothing afterward. These are things which this committee should take into consideration, and the bill should provide an interest for a man whereby his wife and children could be protected to that extent—he would be given the benefit of the lapse of time and the trials which he underwent when he was serving in the war.

The CHAIRMAN: Have you any further questions to ask Captain Baker or Mr. Myers?

*By Mr. Macdonald:*

Q. I would like to ask Mr. Myers if he could give us the rate of pension awarded to a man who has lost one arm or two arms or a leg and so forth?—

A. The rate for a man who has lost one arm would be 60 per cent or more; the rate for a man who has lost two arms would be 100 per cent; the rate for a man who has lost a leg below the knee would be 50 per cent depending on the site of the operation, whether at the knee or in the lower third, middle third or upper third or the disarticulation and would vary between 50 per cent—it would be 60 per cent at the knee and 80 per cent at the hip joint. For two legs 100 per cent.

The CHAIRMAN: You will probably remember the case of the man who lost both arms and both legs but could not get a helpless allowance because they said that once he got his arms on he could put on his legs.

*By Mr. Hartigan:*

Q. What is the total membership of the Amputations Association?—A. 2,000. There are in Canada to-day—I am talking of total membership—every amp is not a member for the simple reason that we have amps living in the most isolated part of this country—but the majority are members, and there are probably in Canada to-day some 2,700 amputation cases. One group, the group that I have referred to—well, there are probably somewhat under 3,000 all told in Canada, England, Australia, and all other Canadian amputation cases.

Captain FRANK McDONOUGH (Canadian Pensioners' Association): Mr. Chairman and gentlemen, I have no wish to take any further time of the committee on this point. Representing the Canadian Pensioners' Association of the great war, I want to say I endorse everything that has been said so far by General Ross, Mr. Bowler, Captain Baker and Mr. Myers.

RICHARD HALE, called.

*By the Chairman:*

Q. Mr. Hale, whom do you represent?—A. The Tubercular Veterans Section of the Canadian Legion. Mr. Chairman and gentlemen, I desire to thank you for this opportunity of again appearing before you and giving you a little light on another very serious problem concerning disabled veterans. I would like to express at the outset our very great appreciation to you, Mr. Chairman, and to those who are responsible for the introduction of this new bill and the removal of the ten year limitation on classes 1 to 5. That will remove a very serious condition which has existed particularly among the tuberculosis class who die very often of other conditions, and will help us a great deal in meeting this tragic situation with which we are confronted all the time. It is a high mortality class with widows and children who have been exposed to tuberculosis infection. I would like to support in every possible way the remarks of Captain Baker and Mr. Myers and to give you from our stand-

point a little more information because the disease of the respiratory system presents a very serious question.

Now, in the first place, gentlemen, it is quite simple to assess disability in the case of amputations; there is a very definite disability and you can measure the limb and so forth; but when it comes to estimating disability in regard to the damage to the respiratory system it is quite a different matter and much more difficult to assess what damage the man has actually suffered. There are many complications, and in years gone by many efforts have been made to do this properly. Colonel Ralston's commission, after a considerable study of the problem, came to the conclusion that in certain types of tuberculosis it was not possible to do it, and that is why they set up section 24 of the Pension Act as really an arbitrary assessment in which they provide 100 per cent pension for a moderately advanced case of tuberculosis for a period of two years after he completes a period of treatment in hospital. There are many other classes of these cases; it is not only the pulmonary class. We have tuberculosis of the spine; we have tuberculosis of the kidneys, of the throat and lungs; and all those are very serious conditions, and the effect of them on the general system of the pensioner is very serious. One of the serious situations which is developing now, gentlemen, is this: you will find that there are an increasing number of cases of tuberculosis and non-tuberculous chest cases where cancer is developing, but it is impossible with the amount of medical knowledge that exists to-day to relate the cancer to the disease in the chest.

And in that connection, I have something to say,—I have not got the specific cases by names and numbers but they can be produced later—I want to say generally that where we have a man who is seriously ill for some time, sometimes for a year or two years, and he has a pension for tuberculosis or some other chest disease, very often the cancer is not diagnosed until after death. We have one very outstanding case in Brantford which probably one member of the committee will be familiar with where a man was seriously ill for a period of a year and a half and the doctors all considered that his illness was due to his tuberculosis condition, and when he died a death certificate was issued showing that his death was due to pulmonary tuberculosis. However, the question was raised as to whether that diagnosis was correct and an autopsy revealed that the chief cause of death was carcinoma of the bronchial tubes which had spread from the lungs. In that case death is not considered to be due to the tuberculous condition and, therefore, this man who was not in class 1 to 5 would receive pension of 60 per cent. There is no provision for his wife and children. Now, I am advancing these sidelights to you so that you may understand that there is another class who deserve consideration in this respect, because when the assessment is determined it is so difficult—there are many who are receiving 60 per cent, and they may be much more seriously disabled than that; and, therefore, they would not benefit by the amendment included in the bill. While I realize that, perhaps, it is asking a great deal to extend the class down to 50 per cent, the tuberculosis veterans section are very anxious that you should give serious consideration to the request which has been advanced to you by the Amputations Association and the Sir Arthur Pearson Club of blinded sailors and soldiers. There may be other classes of diseases of which it could be said truly that they are in this category also, but the respiratory class are, after all, in a very serious state.

They face great difficulty in respect of employment. Nobody wants a case of tuberculosis, if they know it. I could tell you some very tragic stories of how tubercular veterans have tried to get work and of how they have had to conceal their condition, and how when it became known they were immediately released from employment. As you know, they are prohibited under certain health acts from following certain occupations. And also it goes on, into the question of housing. You would be surprised to know how many

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landlords decline to accept a tubercular veteran as a tenant. You cannot blame him, his property deteriorates if it is known that a tubercular veteran lives there. A few years ago I had a unique experience, moving four times in one year because of that particular reason. And that is the disability under which this class has laboured for many years. Now, that is all in connection with the difficulties which these men have in providing for their families after their death. All these things take his money and he therefore has no means for providing for his wife and children after his death.

Insurance: A few of them were able to get under the Returned Soldiers' Insurance Act. That, of course, was a very great benefit to the wives of many of them. While they had that provision in the earlier years that Act is now closed; and while no serious effort had been made to reopen the Act I do suggest to the committee that they might give some time to considering whether it would not be beneficial to reopen it. The Returned Soldier Act was for the purpose of giving the returned soldier an opportunity of providing for his family. As I understand this legislation the Returned Soldiers' Insurance Act has been a very economical measure in that the state is not going to lose very much money, but rather in the final analysis they may even make some money; so this committee might well consider that as a means to making provision for cases of this kind.

Now, there is just one other point in connection with this matter which I would like to stress at this stage. I mentioned tuberculosis, but there is another class of men in this chest-trouble group who suffer from a disease known as bronchiectasis. This is a trouble which develops in the chest in such a way that pus forms and subsequently abscesses develop. It is a condition which it is very difficult to assess accurately. There is another feature to the disease which is unfortunate and that is that after bronchiectasis sets in there develops a peculiar aroma which is very very objectionable. We find tremendous difficulty in securing employment for men of this group. About the only place where they can be employed is on some kind of work out of doors, and in that case they are not particularly able to do it. They as a class, of course, are very often under-assessed so far as pension is concerned. It is very difficult to determine how much disability they should have. I do not want my remarks to be construed as any criticism of the Canadian Pension Commission. They have been very fair and very willing to go into these cases, and to investigate them to the fullest extent. But, nevertheless, in spite of all that, very often the assessment of their disability is under what it should be. As this is shown in many cases after death when conditions are disclosed which it was not possible to find before. We have had a lot of these cases where cancer has developed—and this is a very serious condition—in an area which has not been disclosed until after death, and where had it been known the assessment of their disability would have been higher, and they would probably have been in classes 1 to 5.

Now, I would be glad to answer any questions you may care to ask about this. These few remarks are only intended to give you an incidental view of this other class. With respect to the request which we have made to you this morning there is just this to be said, that the casualties in our class are much higher than they are in most cases. Our men are susceptible to acute infections. They develop these things and death very often results from some condition other than the pensionable condition, and it is very difficult to associate the two. Unless they are in the 1 to 5 group, and the ten year limitation does not prevent it, there is no provision for the wife and the children. I may say this, gentlemen: within the last ten years we of the Tubercular Veterans' Section have raised somewhere in the neighbourhood of \$25,000 in an effort in our own little way to provide for the wives and children who have been left. I would remind you also, gentlemen, that there is another trouble which has developed in connection with these cases. Many of the children have developed tuberculosis; and a

number of the wives have developed it also in caring for these men. Unfortunately, they are in the category where it is almost impossible in many cases for them to go out and earn their livelihood. I would ask your serious consideration to this request so that these people, and it is very serious in some cases, can have some security and comfort in their last years. They will not be here many years longer. Mr. Myers, I think, made a very good point when he pointed out that it is not going to cost the country a great deal of money to do this. Of course, some one has said that as the years go by the pension bill should diminish. Well, I take it that it should not diminish at the expense of the widows of those who have died, and I feel that that is a very sound position to take. We are not asking the state to pay out any more in the final analysis. It should not cost a great deal more because you are simply paying to the widow what you would have paid to the soldier had he continued to live.

*By Mr. McDonald:*

Q. Are most of the members of your association in the 50 per cent or over class?—A. No, not most of them. I cannot give you accurate figures as to that. The official figures in the respiratory classes do not separate the broncheictases from the tubercular classes. No doubt these figures can be obtained from the department. The most recent figures that we have been able to get show that there are some 2,200 pulmonary tuberculosis cases receiving 50 per cent or more. The great majority of the men in these classes are not in the 50 per cent class. I am safe in saying that.

Mr. HAMILTON: Do I understand that the Legion are proposing that the pensionable disability cases from 50 per cent up, when death occurs, no matter what the nature of the disability, the widow is to be continued on on a certain basis after the pensioner's death. Does that apply to all classes of disability, or only to a particular type of disability?

The CHAIRMAN: Generally speaking, the proposal is that we shall presume a man to have died of a pensionable disability if he is in receipt of a disability pension of more than 50 per cent; for all classes, for everybody. That I take it is your submission. Is it not?

General Ross: Yes, Mr. Chairman; we were not singling out any particular class.

Mr. McDONALD: Is that representation from the Legion?

General Ross: No, it is not. Our representation deals with the 1 to 5 group; but we are certainly sympathetically disposed toward any consideration the committee can give to any extension you feel can be made whereby better provision can be made for dependents.

The CHAIRMAN: You are not going to refuse anything.

General Ross: Well, no. As far as the question raised there is concerned, we are supporting the case of these people before you. So far as the 1 to 5 group is concerned we say that these men are very seriously disabled; that in every case the disability is such that they have not been able to provide for their wives in their lifetime and that, therefore, special consideration should be given to them. Also, with respect to these other classes we feel that they should have some consideration. As has been indicated, they are faced with a very serious condition, and we think that they should also be put in that class. Somebody has to look after them, they have got to be cared for; by relief if not by pension. It has to come out of the public purse.

Mr. THORSON: It would follow from that that if a 50 per cent pensioner were run over by a street car and killed his dependents would receive attention.

General Ross: That is an exceptional case; one which is not likely to happen. However, it is for the committee to consider what they will do about

[Mr. Richard Hale.]



the lower categories. With respect to the higher categories we recognize a measure of national responsibility for them. But in many of these cases no provision has been made for the wife they have married and the children they have been permitted to bring into the world.

The CHAIRMAN: I have no clear recollection of any representations being made to any of the committees about these lower categories to the effect that death shall be presumed to have been due to war service, whether it was or whether it was not; for classes other than the 80 per cent category. In the early pension committee a very sound case was made with respect to the 80 per cent disability pensioners, most of whom were amputation cases, on the grounds that these poor fellows had not become accustomed to getting around very much, and that there was a very serious danger of their meeting with accidental death from street cars—as Mr. Thorson has pointed out—or from automobile accidents and so on and so forth. On that ground I think the 1919 committee agreed that for three years—until they could get about and accustom themselves to the changed condition—that there should be a presumption in favour of the widow. That, as I said before, was acceptable to the Ralston commission and on their recommendation extended for a period of five years. Later on, I think it was in 1928, it was extended to ten years. The proposal is now made that this limitation of time, in so far as the 80 per cent pensioner is concerned, should be continued indefinitely. The further proposition made to us to-day is that this should extend also to include any pensioner whose disability is 50 per cent or over.

Mr. BETTS: I would like to ask General Ross if these representations were made to the Canadian Legion, and if they were made to the Canadian Legion if there is any reason—if he would care to tell us, perhaps he may not—why these representations do not appear in his brief. That is what I want to know.

General ROSS: I accepted this brief without consultation, there was no opportunity for consultation. This brief represents what we thought we were absolutely entitled to get, so we put it in in that way. After hearing that argument I agree that there is a lot to be said for its acceptance. We put forward what we thought, I might say, we were absolutely entitled to, you see. Now, we are prepared to give sympathetic support to the other consideration. As a matter of fact this brief was ready for presentation to the government last year but we did not have an opportunity to come forward with it. I may say that as soon as the new government came in we at once made representations to the new minister. I do not want to depart from the principle of having asked him for a committee on the basis of this brief.

Mr. McDONALD: It might be interesting for the committee to know, in regard to a man being killed by an automobile and the wife getting a full pension, that there is a case of a man in Brantford who was in the city of Toronto when he was hit by an automobile and killed. His widow, of course, got a full pension.

The CHAIRMAN: She got her pension.

Mr. McDONALD: But he was killed by an automobile.

The CHAIRMAN: Yes.

Mr. HAMILTON: I think there are many cases of men who have been hit by automobiles and have died. I have a case in mind where the medical opinion was that had the man not had overseas service he would have survived the injury, which he did survive for some ten days. The man died, but the consensus of medical opinion was that had he not had overseas service he would have survived that accident.

The CHAIRMAN: Have you any further questions for Mr. Hale.

Mr. MACNEIL: I would like to ask Mr. Hale if from his experience it is not true that in a great majority of cases to which he refers that death is consequential to the disability for which the pension is received.

Mr. HALE: Mr. Chairman, in answer to that question I would say this: I think the medical profession generally admit that a man with tuberculosis in any form is apt to have weakness develop in other parts of the system. In this way he becomes susceptible to other infections. It is a remarkable fact that in most cases of death in this group the death is due to two things; either the tuberculosis itself takes a sudden acute turn causing death, or some other condition develops causing inherent weakness and death ensues. If they die of something else the widow is not pensionable except in classes 1 to 5; that is our difficulty, as I tried to make clear. When they arrive at this assessment of percentage it is a most difficult matter to say whether they are right or not; very often even at an autopsy it is sometimes difficult to determine whether or not the assessment was correct. Then, of course, it becomes a legal matter; that you cannot debate or discuss the question of disability after a man has died. We have had a great deal of discussion with the present chairman of the commission on this particular point. I think he is probably quite sound in so far as the legal position is concerned, but morally I must say I disagree absolutely that such a thing should be; because autopsies to disclose many conditions the full nature of which could not possibly be determined before death. In the case of such a disclosure I contend that consideration should be given to the apparent error in the assessment of the disability before death. But, legally, I have to admit that the position taken by the commission is perfectly sound.

*By Mr. Reid:*

Q. I presume when you say, "consensus of medical opinion," you mean medical opinion not connected with the Pension Department? A. I would rather not go into that.

Mr. MUTCH: As a result of this discussion it seems to me that the essential weakness in arriving at these percentages is that they do not take into consideration the nature of the disability. It seems perfectly obvious to me that a 70 per cent or 60 per cent tubercular disability is in an infinitely more serious situation than a man who has one leg off, yet the percentage is exactly the same. I do not know the possibility of regarding this from the standpoint of the nature of the disability. It looks to me as though what they are doing now is to fix these pensions on an arbitrary basis. There are many cases of men who are amputations, having one arm off or one leg off, and they have a better opportunity of making a living than many others whom it seems to me are penalized. That is the weakness of the present arrangement. I am wondering if there is any way of rectifying this situation as it applies to many of these pension cases. I wonder if we cannot take into consideration the nature of the disability, instead of fixing it arbitrarily at 50 per cent, or anything else as it is done now. We are up against a thing which is almost impossible to handle.

The CHAIRMAN: As a gun-shot wound I will put up an argument against you, that we are in a much worse position than you are—than a fellow who has not got a gun-shot wound—because they have fixed the total disability for a man who is an amputation case. They give, say, 50 per cent for a man with an arm off who may live to kingdom come. You say he won't get any worse. His suffering gets a lot worse as he grows older. When a man has tuberculosis and his condition gets worse he gets an increase of pension; whereas we just stop there, from 1919 on as long as we last. The argument that amputation cases put up is that they suffer a great deal more pain as they grow older because of rheumatism and so on.

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Mr. HARTIGAN: There is another thing which the Pension Board does not take into consideration. That is these men who have amputations and have been operated on a number of times. They run the risk of the effect that has on their heart. There were cases of the type some of the members were discussing here, of men being struck by automobiles, and the like. Well, a man of that type is running a great deal higher risk than an ordinary man of being struck by an automobile in the tragic manner we have had described. The Pension Board does not take into consideration the fact that such a man has been operated on and he may have a clot or a lesion in his heart which is not readily demonstrable. Then, there are these tubercular cases. You know, as a rule, carcinoma of the lungs is relatively rare, but in the last ten or twelve years many more cases of carcinoma have been demonstrated owing to the better application of X-ray. The interesting thing about these cases from the standpoint of the Pension Board should be that it is now possible more accurately to determine cases of carcinoma. If they could show that condition in a patient who had been subject to gas attacks or similar exposure on war service they would be doing something. Then there are the cases of these men who had been operated on who have probably had pus discharges from the wound which has passed into their systems causing cardiac conditions. It is among this group that you have a great many accidental deaths, and who knows how often the accidental death is not directly attributable to some cause like that? I know of cases in the coal mines in my district where we have some very tragic accidents which really occur as the result of a heart lesion which occurred coincidentally with the man's fall, so that he was unable to get up and get out of the way of the box as it comes along. You will be told that such a man had a heart attack, and you will find in many cases of men who are struck by automobiles that the accident was due to cardiac condition.

Mr. MUTCH: I want to revise what I said a moment before. It is not my intention to detract in any sense from the seriousness of amputation cases.

The CHAIRMAN: No, no.

Mr. MUTCH: In view of the fact that these proceedings are being reported, I want to put on record my explanation as to that.

Mr. HALE: I appreciate very much the hearing given us to-day.

The CHAIRMAN: Have you any further questions for Mr. Hale? All right, Mr. Hale. I suppose you will be in attendance.

General ROSS: I am sorry, Mr. Chairman, but this morning I was very rushed and I did not have an opportunity of conferring with a representative of the Canadian Corps Association. I do not know whether they have anything to say or not.

Mr. T. C. LAPP: I may say that the Canadian Corps are in full agreement with the Legion's submission in every particular.

The CHAIRMAN: The next section is short. Perhaps we had better take it.

General ROSS: That is section 4 on page 2. This is another amendment we are asking to the Pension Act. I will ask Mr. Bowler to explain the section.

Mr. BOWLER: This paragraph, No. 4 on page 2 of the Legion's printed submission, deals with the question of the right to pension of widows of pensioners whose pensions were awarded under section 12 (c) of the Pension Act, in cases where the degree of aggravation of pre-enlisted disability is 50 per cent or more. Perhaps a word of explanation is in order, although I have no doubt many members of the committee are familiar with the point. There is one provision in our Pension Act whereby a pension may be paid for disability due to a venereal condition; and that is found in section 12, paragraph (c), of the Act. Section 12 reads:—

12. A pension shall not be awarded when the death or disability of the member of the forces was due to improper conduct as herein defined: provided—

and then it goes down to (c):—

(c) that in the case of venereal disease contracted prior to enlistment and aggravated during service pension shall be awarded for the total disability at the time of discharge in all cases where the member of the forces saw service in a theatre of actual war, but no increase in disability after discharge shall be pensionable.

In other words, in order to become entitled to pension for disability due to a venereal condition a man must have been accepted as fit, must have served in France, and must have had aggravation of a pre-enlistment condition during service; and the Act places on him this prohibition, that notwithstanding the fact that his disability may increase subsequent to discharge his pension will remain in accordance with the extent of the disability actually existing at that time; that is, at the time of his discharge.

The CHAIRMAN: Perhaps I might explain that section. A man who incurs a disability due to venereal whilst on service is not pensionable if prior to his enlistment he had a venereal disease. But, if he served in France we will give him a pension due to the aggravation; but he never gets any increase in pension if his pensionable disability increases. We stop him right at the date of his discharge from the army; because, I think it will be admitted by those who have had experience of this, we thought you must stop somewhere; we could not let him be increasing his disability by subsequent attacks of this disease when he gets into civil life, for which the army could not be in any way responsible. But, it was thought that possibly the disability which he had at the time of his enlistment might very reasonably have been aggravated by the hardships which he underwent overseas. So, there is a special class—if I may repeat myself—unless they had this disability prior to enlistment there is no pension. If they had it prior to enlistment they get a pension for aggravation from that date to the date on which they left the army. A great many will eventually perhaps die from this disability, but they never get up to a 70 per cent or 80 per cent or 90 per cent pension as they get worse. The question now being discussed is whether in the case of a man who left the army with a 50 per cent pension for aggravation of a venereal disease his widow could obtain a pension. That is the point.

Mr. BOWLER: Yes, that is the point. It was necessary to give that background in order to lead up to the question as to the situation of the widows, and what happens in a case when a man pensioned under these circumstances dies. Now, the ordinary provision of the Pension Act is found in section 11; that in the case of a pre-enlistment disability—not necessarily venereal—but in the case of a pre-enlistment disability aggravated during service pension is payable to the widow if in the opinion of the Pension Commission death is the result of the aggravation. Now, they usually determine that on a basis which is an arbitrary one but it seems to have been generally satisfactory. It is not laid down in the Act. The Commission take the position that death as a result of a pre-enlistment aggravation, if it is shown that the pre-enlistment disability was aggravated to the extent of 50 per cent—or something like that—it is a rule of thumb, but it seems to work generally very satisfactorily—they say death is not the result of aggravation and pension is not payable; but where it is 50 per cent or more they say it is the result of aggravation and pension is paid.

Now, in regard to these special classes under section 12 (c); it is a condition precedent in these cases that there must have been aggravation in order to entitle a man to pension; and the same rule has been applied, to the best of my

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knowledge, from the inception of the Pension Act; that even in these 12 (c) cases—venereal cases—if it is shown that the pre-enlistment disability—the pre-enlistment venereal—was aggravated through service to the extent of 50 per cent or more pensions were payable to the widows in those cases; and according to the best information I can get—and I think you can confirm this from the Pension Commission—some years ago the Commission being in doubt as to whether or not that practice was correct submitted that question to the Department of Justice, and the Department of Justice gave its opinion that the practice was correct and it was therefore continued. Well then, some years later—I think it was in 1932—section 12 went before the Pension Appeal Court for interpretation. I have in my hand the judgment in a certain case, the name and number of which I will file, dealing with the whole subject.

The CHAIRMAN: I do not think we will file the name, just the number.

Mr. BOWLER: Well, his rating is Lieutenant.

GENERAL ROSS: Give the pension number.

Mr. BOWLER: All right, we will give the pension number. I do not think I have it at the moment. I will undertake to get it.

The CHAIRMAN: I think the officers should be protected against the consequences of their misconduct just as much as the men.

WITNESS: In any case, the effect of this judgment in as far as it applies to widows is that under no circumstances whatever can the widow of a man pensioned under section 12 (c) obtain a pension if it is a case of venereal disease pre-enlistment aggravated. The result was that some 20 to 35 cases were immediately discontinued by the Pensions commission. The Legion proceeded to make representations to the government of the day pointing out that this was a reversal of established and recognized practice and procedure and suggesting that if the Act were not clear then it should be amended in order to legalize the procedure which had been carried out for so many years. The Legion was successful in those representations to this extent that they did decide to reinstate the pension to those widows not, however, under section 12 but under section 21,—that is, the meritorious or compassionate section of the Act. They were all reinstated under that section and they were all restored to their previous rights as from the date of discontinuance.

Now, having accomplished that we thought, perhaps, with some justification, that the matter was settled and nothing further was required. Subsequently, however, cases of the same nature have arisen: that is, deaths have occurred since that procedure was carried out, and upon applying to the Pensions commission for similar treatment in these cases the chairman expressed the opinion that he was still bound by the judgment of the Appeal Court, and that as a matter of law and as a matter of right the widow had no claim; and he also expressed the opinion that notwithstanding that the meritorious clause had been used to reinstate the other twenty odd cases still the wording of the Appeal Court judgment was very definite and left so little leeway that he expressed a grave doubt as to whether he could properly again invoke the meritorious clause for cases of a similar nature. That left the Legion no other alternative than to apply for definite remedial legislation, and that is the purpose of this section.

The CHAIRMAN: I suggest to the press reporters that they do not give too much publicity to the fact that the meritorious clause, which has been used in very few instances, was used wholesale in cases which, perhaps, would not meet with too great public approval.

WITNESS: I think it was done just to avoid the necessity of seeking legislation at that time.

*By Mr. Thorson:*

Q. What legislative amendment would you suggest?—A. I do not think we have anything drafted, but we are quite willing to try.

Q. Because it was really a question of finding the fact based upon an arbitrary ruling, was it not? They found as a fact that the soldier had died from the aggravation?—A. No. I think if you read this judgment that it is a finding of law that under no circumstances—there is no provision of the Act which permits payment or authorizes payment of pensions to the widow in cases where the man died from venereal disease.

Q. But previously the Pension commission had found as a fact that the soldier had died as a result of the aggravation, and the aggravation was over 50 per cent?—A. Yes.

Q. And they had found that as a fact. Whether it was a fact or not is another matter?—A. That is not in issue.

Q. The Federal Appeal Court had decided it was not competent for the commission to find that as a fact.

THE CHAIRMAN: Under the law.

*By Mr. Hartigan:*

Q. Suppose a patient died as a result of rheumatic heart.

GENERAL ROSS: Under that judgment it cannot be done.

*By Mr. Mutch:*

Q. How is the percentage of pre-enlistment disability determined. If we are going to determine 50 per cent increase where do we start from?—A. It does not arise in this case. That is not the issue of the question as to whether the aggravation is 50 per cent or not, the question is that under no circumstances can the widow be pensioned with respect of a man who died from a venereal condition.

*By the Chairman:*

Q. The other question might be answered in this way, if I understand it. Again to revert to what I said originally: they said that if the man contracted this disease whilst on service he is out, but if he had it prior to enlistment he is entitled to pension for the aggravation, and they took his state as being that which he had at the time he retired from the army. Supposing he retired from the army 40 per cent disabled due to venereal disease. They say: that is what you are going to get forever whether your disability increases or not; you are going to stay at 40 per cent.

MR. THORSON: Unless it is pre-enlistment.

WITNESS: No, they pay for the entire amount of disability. They do not increase it afterwards.

THE CHAIRMAN: They find him 40 to 50 or 60 per cent disabled at the time he leaves the army and they say: we are through with you. They do not try to gauge what was his state when he went in and came out.

MR. MALCOLM McLEAN: Because he had been accepted as fit when he enlisted.

THE CHAIRMAN: Yes. They say when you go out that you get 40 or 50 per cent and that is all you get. The man who acquired the disease during the war does not get it because it has been but down to misconduct. That has been a controversial question. There are those who say that there was a certain amount of toleration in that regard; parliament never considered that.

The committee adjourned to meet at 11 o'clock a.m., Friday, April 3, 1936.

*Problems, Special Committee, 1936*

SESSION 1936

HOUSE OF COMMONS

( SPECIAL COMMITTEE )

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 2

FRIDAY, APRIL 3, 1936

## WITNESSES:

Colonel W. C. H. Wood, Dominion President of the Army and Navy Veterans' Association.

Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire Service League.

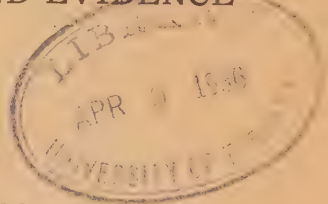
General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League.

OTTAWA

J. O. PATENAUDE, I.S.O.,

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936







## MINUTES OF PROCEEDINGS

FRIDAY, April 3, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 o'clock, a.m., Hon. C. G. Power, the Chairman, presided.

The following members were present: Messrs. Beaubier, Betts, Brooks, Cameron (*Hastings South*), Fiset (Sir Eugène), Green, Hamilton, Hartigan, Lapointe (*Matapedia-Matane*), Lennard, MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), Streight and Thorson.—22.

In attendance:—

Mr. Richard Myers, Honourary Secretary of the Amputations' Association of the Great War.

Captain Frank McDonough, Canadian Pensioners' Association.

Mr. Richard Hale, representing the Tubercular Veterans' Association.

Mr. T. C. Lapp, Canadian Corps Association.

Mr. Thorson reported that the sub-committee on agenda had considered the requests of various soldiers' organizations to send representatives, and had decided that action regarding them should be deferred in order to obviate duplication of evidence. He suggested they might submit their views in writing.

The sub-committee thought that to-day, Monday and Tuesday, might be taken up with the representatives of the two larger soldiers' organizations, who are already here—viz., the Canadian Legion and the Canadian Corps Association.

Colonel W. C. H. Wood, Dominion President of the Army and Navy Veterans' Association, was called, examined and retired.

Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire Service League filed a statement on the origin and development of legislation providing pensions for widows of pensioners in classes 1 to 5. The committee ordered this to be printed as Appendix "A".

General Alex. Ross, Dominion President of the Canadian Legion of the British Empire League, was recalled and examined. He filed "Memorandum on submissions and observations *re* the proposed amendments to the Pension Act, Chapter 157, R.S.C., as amended." This was ordered printed as Appendix "B". Also, the memorandum of the Canadian Legion of the British Empire Service League, which was ordered to be printed as Appendix "C".

The witness retired and the committee adjourned until Monday, April 6, at 11 o'clock, a.m.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497

April 3, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman, presiding.

The CHAIRMAN: Order, please. As the Speaker says: Presenting reports by standing and select committees. Have our committees anything to say?

Mr. THORSON: Mr. Chairman, the agenda committee met yesterday, and we felt that our attitude towards the various requests that have been made by soldiers' organizations generally ought to be to this effect: that we should defer consideration of their requests for representation in order that we might ascertain whether their viewpoint had already been expressed to the committee, feeling that there would be no useful object served in having the same viewpoint expressed by a large number of organizations. We also felt that if any organization wished to present its evidence to the committee it might do so in written form, and that their representations might be made to the committee in that way. By way of illustration: the minister has received a communication from the Disabled Veterans' Association enclosing representations made to Mr. Justice Hyndman on the 4th of April, 1935. That representation might perhaps be filed with the committee for its consideration.

The CHAIRMAN: Just a moment, do you want to file it in the record?

Mr. THORSON: I think it might be just as well to do so.

Then, here is a similar representation from the Canadian War Disability Pensioners' Association of Winnipeg addressed to the Prime Minister. I think perhaps that should also be filed in the same way.

The CHAIRMAN: Both of these organizations asked to be heard here.

Mr. THORSON: Both these organizations have asked to be heard here, and they ask to be invited to send representatives of their organization, and I imagine at government expense. Now, our thought was that it might be well to defer consideration of their specific request in the matter until we have seen whether their case had been presented from their particular viewpoint through any agency that appears before the committee voluntarily, and that the case might be met by asking them to make written representations if they cared to do so.

Now, we also felt that to-day and Monday and Tuesday might well be taken up with representations from the two larger soldiers' organizations. I understand that this morning the Canadian Corps wishes to make a representation after the Legion finishes.

The CHAIRMAN: They are here now.

Mr. THORSON: Yes, they are here now. I understand that the Army and Navy Veterans are here also and that they are prepared to go on immediately.

The CHAIRMAN: We will now proceed to hear witnesses. I understand that the Canadian Legion, as an evidence of the fine spirit which exists among return soldiers' organizations, is willing to concede the floor to the Army and Navy Veterans. Colonel Wood, of Quebec, will tell us what he has got to say.

COL. W. C. H. WOOD, President, Army and Navy Veterans' Association of Canada, called:

WITNESS: I should be very brief, sir; because all the detailed experience of our adjustment service which has been working on this for years is at your disposal at any time it may be required. I should like to say, sir, in general terms that I hope the public will appreciate the fact that the five Dominion chartered bodies quite independently are all converging on the same objective, and more or less in the same way. I think that is more impressive than if the movement had been preceded by general agreements among themselves. They are all fighting on the same side and pretty well in the same way. I do not wish to bother you with any details, but I should like to mention the fact that the Army and Navy Veterans had a convention in Vancouver two years ago—1934; and to show you how all of us, the Legion, the Army and Navy, the Amps., the Pensioners and the Blind, are working together pretty well in the same way: I remember the time scribbling down the back of our convention report some 20 resolutions, all relating to things about which we were concerned in 1934; particularly things like the famous section 73—about which you all know here—and that is a particular thing which has come up. I remember we had that in 1930 and 1933, and on all the government commissions on which I sat—on diseases of long standing and of an insidious type—and on this the final word has not quite been said yet. And the famous W. V. A. I remember, sir, if I might interject a personal remark, that on one occasion you admitted that you did not think at first that the war veterans' allowances when it was coming up was the very best thing possible; and having admitted that you stated afterwards that it was one of the best things ever done. As a rule, little men always think they are right; bigger men change their opinions.

I am not in politics. I am not looking for any votes or anything like that, and I broke up an official quorum to come here this morning; otherwise, I apologize for not being here yesterday. We reviewed all this in 1935. Now we are dealing with it again in 1936. I say this is a great thing, that the five chartered bodies on their own action are converging on the same objective and pretty much in the same way; that I think is much more impressive—that they have independency as autonomous bodies without having any preliminary pow-wows.

The only thing to which I would like to make any special reference, and again I think we are all agreed on that, is to what I believe is called the great objective, that of humanizing what is generally termed departmentalism. In so far as I personally know and so far as I am told by reliable witnesses you could not find a more human set or a more decent lot of fellows—to use very plain english—than you will find in the department over which we are now, sir, glad to see you preside; I mean, the permanent officials. But apparently a spider's web has gradually woven over some of the provisions, especially going back to dear old 73. I remember a man who was one of the greatest experts, a very fine veteran of the war, and a very able legal man who makes use of this term; "every reasonable doubt." Well, when you get reasonable departmental interpretations sometimes the interpretations are a little less human and a little less humane than they otherwise would be. I am still inclined to think, sir, although I could not draft any legal document if I was to be shot for it, much less Acts of Parliament; I still think that something to the effect at the end of 73—the departments say they do it already—should be added—you could do it in less than a dozen words—"and with special reference to the war strain he endured." That is quite plain, although it is not in the Act. This has an important bearing on a man's disability. His disability is subject to the war strain he endured. Take a thing which probably does not effect anybody in this room, except possibly some of my friends of the Legion who are here and who were at the convention in Vancouver recently. As they will know there were a great many naval men there. Let us take the case of a man who served on a battle ship and compare it with that of a man who served in a sub-

[Colonel W. C. H. Wood.]

marine. I do not know whether there is anybody here who has ever been through a submarine. I do not mean the luxury type which they have now, but anything previous to the "K." They were the luxury ones back in 1917. You know that if you were submerged that after a little the sub gets a cold sweat inside her, and that cold sweat gets inside of you. I don't know how the devil it is done, but it is done. Therefore, if a man quite apart from his disability incurred in action puts in an equal number of days on board of a dreadnought and on board of a submarine at sea during the war—except for the "L" class at the end of it—it is absolutely certain that he must have a pre-disposition incurred on war service to some war disability two or three times as great probably as that in the case of a man who put in his service on a battle ship where probably he was just as healthy and possibly healthier than you would be if you were living in the Chateau Laurier here—food, exercise and everything. But on board a submarine he must have suffered from pre-dispositions leading to a war disability. That is absolutely certain.

I should like to say just a word, sir, with regard to reductions of pensions. Many are perfectly justifiable; and if I may again use a very plain English word, in the case of "rotters" who have got in for what they can get out, the sooner the reduction is made the better. Let them drop. But in the case of those who have been "not guilty" in getting a large percentage, never mind the amount, to make a very sudden reduction—in some cases all the notice a man gets is a letter stating that his pension is reduced from 100 per cent to 10 per cent, whatever the case may be. That is a very severe post war disability inflicted departmentally.

There is only one thing with regard to W. V. A. which I should like to mention, and I think we are all agreed about it, and I think the wording as a matter of fact of all of us is practically identical, and that is that the words now used "totally unemployable" should be changed to "industrially unemployable." That, of course incidentally brings up the further question of what was called rightly or wrongly "sheltered employment" for men who were not 100 per cent fit.

One further thing, sir, as 100 per cent, is in my mind: If a man was boarded in Canada, boarded in England and boarded in France and passed as A-1, one-hundred per cent, fit, it seems to me that it is a little unjust for anybody, however wisely, medically or otherwise, justifiably to say that that man after having been passed three times over and perhaps by nine different doctors as A-1 (100 per cent), fit for the front line in France, that they should find a pre-war pre-disposition to some post-war disability.

I have nothing further to say in general terms, sir. I have a short statement here which would only take about three or four minutes to read, and I could hand it in afterwards:—

Mr. Chairman and Members of the Committee: The war veterans of Canada appreciate the concern that the Parliament of Canada always has shown for the welfare of the disabled, the dependent and the distressed in our ranks.

I should like to mention this, sir: You will remember very well the occasion when the heads of the different registered bodies sat in with the Parliamentary Committee, on two occasions and under two governments, the effect was exactly the same among the M.P.'s; they were neither liberals, conservatives nor anything else: they were all out for what they could do for the ex-service man. There is no doubt about that, personally.

We regard the appointment of this Committee as a further evidence of that concern and, as in other years, we will endeavour to express our appreciation by offering every possible assistance that its objective—and ours—may be attained.



It is not my intention to set forth the details of the matters within the scope of the inquiry by this Committee. That duty has been assigned to our expert witnesses, and the detailed experience of our adjustment service is at your service whenever you require it. But it may be of some assistance in clarifying the purpose of our representations to state the broad principles we have endeavoured to follow. While I refer directly to the proposals emanating from our own association. The Army and Navy Veterans of Canada, from frequent and cordial intercourse with the other veteran bodies, I believe that generally we are working in the same direction.

**Pensions:** From many years of effort in dealing with individual claims for pension, through our Adjustment Service Bureau, The Army & Navy Veterans of Canada is of the opinion that some action is imperative to dispose of the considerable number of claims seemingly with real merit which have been under consideration, in one way and another, for long periods of time, even years. We believe the solution is to be found in administration and personnel—possibly more Pension Commissioners for short-term appointments, with a speeding up of hearing proceedings.

Another aid which we suggest is the securing of expert medical opinions on stated type cases, with such opinions to be used as guides in subsequent decisions on cases of parallel circumstances.

There are many cases that have been before the Legion and other bodies repeatedly; especially involving those diseases which are variable in type, which have a peak of disability, and which are subject to post-war growth.

We do not believe that time limits or similar restrictive measures at this juncture would prove of any material value, either in bringing claims to a finality or in effecting economies. In fact, we believe that time limits would have the effect of producing a rush of claims, many with little substance in fact, and thus clutter up the machinery.

**War Veterans Allowances:** There are undoubtedly an increasing number of war veterans who have become not only medically unemployable, but a greater proportion who are industrially unemployable. They may be capable of performing some work, but under prevailing economic conditions there simply is no place to fit them in. The Army & Navy Veterans of Canada believes that these men should be removed from the fringe of the labour market, leaving the way clear for the employables.

I should like to mention here, sir, that we are in entire agreement with the provisions of the Hyndman Commission report about what are called "sheltered employment"—or words to that effect.

The War Veterans Allowances Act could very well be expanded to meet this situation, having in mind that extension of allowances would in the vast number of cases simply shift the individual from one source of public assistance to another, but giving the veteran the dignity of a pension.

**Veterans Assistance Commission:** In consideration of the particular handicaps suffered by war veterans in securing employment, we have made frequent representations in recent years for governmental action to deal with unemployment among war veterans as a special problem. We offered certain suggestions which are contained in the Hyndman report. But, excellent though that report may be, we feel that it fell short of exploring the full extent of the problem. There is need of classification of unemployed and unemployable veterans, with special efforts to deal with the

[Colonel W. C. H. Wood.]

problem in relation to each particular classification. Furthermore, we must think of the problem in terms of human beings, and not solely of their material needs for a bare existence. This undoubtedly is the most important problem with which this committee is faced.

That is all, sir, that I personally have to present.

The CHAIRMAN: Thank you very much.

*By Mr. Mulock:*

Q. I would like to ask a question or two. Do you find that there is much difficulty in decision? For instance, you have Christie Street Boards being changed by medical advisers when they come to Ottawa. In other words, a man comes from a board at Christie Street and he believes that he has put forth his case in a perfectly clear way and he is given encouragement to believe that his pension is not going to be interfered with, but some months later he may find that in the department here at Ottawa the medical advisors of the department look over the man's file—they have never seen this man at all—and he has had his pension cut. Have you many cases of that kind? Is that one of the chief causes of complaint?—A. I gather, sir, that the questioner and I are in agreement on that point; because the personal appearance of a man in relation to the matter in dispute seems to me is quite essential. I do not know whether that was in the mind of my questioner or not.

Q. Yes, it was?—A. Then, sir, you must be a mind reader, because I am coming to something else, "peak" diseases; that is variable diseases. We have had in our adjustment service cases of men having variable diseases. It might happen that when they came down here they were down at the bottom of the "variable" of their disease. I think it is just as important that they should be examined at the peak of their disease as well. That is very important and I think that is the thing about which we are all agreed.

Mr. BETTS: I do not know if it is in order to make remarks as they occur to one.

The CHAIRMAN: Nearly everything is in order here.

Mr. BETTS: Arising from what the last witness has said of what Mr. Mulock asked him it seems to me it would be a very healthy thing if something could be brought into the act or into the regulations preventing any medical referee who has not actually seen the subject from varying an award, because I heartily endorse what the last witness has said: the appearance of the man must inevitably tell so much. I have had many cases come to my knowledge such as those which Mr. Mulock details where extraordinary things have been done by people who have never laid eyes on the men.

Mr. MUTCH: You will get rid of the Canadian National deficit if you start bringing them down here for examination.

The CHAIRMAN: I think we had complaints at one time, but it seems to me that since the institution of the tribunals, and later the quorums, that has been done away with. The quorum provides for personal appearance and for the appearance of witnesses, medical and otherwise. Prior to the institution of tribunals those cases were all decided without the pensioner having been seen at all. The file was simply sent into the Pension department at Ottawa and a decision was arrived at on that file. In order to obviate that difficulty, in 1930 there were constituted travelling tribunals to go into the various districts, and a man would be brought before them along with his witnesses. So, I think, to some extent the trouble which has been indicated by Mr. Mulock and Mr. Betts has been done away with. No one in the committee would have any objection to our fully exploring that phase of the situation.

Mr. J. R. BOWLER, recalled.

WITNESS: Mr. Chairman, you asked me to help in the preparation of a statement showing the origin and development of the legislation providing pensions for widows of pensioners in classes 1 to 5 irrespective of service, cause or death.

The CHAIRMAN: Will you file the statement and we will have it printed in the record of to-day's proceedings.

(Statement appears as appendix A to this day's proceedings).

General Ross: Now, gentlemen, we left off yesterday with the completion of the fourth paragraph on page 2. Since that time we have had an opportunity of considering bill 26 in detail, and I should like to-day to make observations upon certain sections of that bill, tying it into the remaining portions as we go along.

I shall open by reading from this memorandum.

The CHAIRMAN: We shall also include your memorandum in the appendix to to-day's proceedings.

(Memorandum on submissions and observations *re* the proposed amendments to the Pension Act, chapter 157, R.S.C., as amended, appears as appendix B to this day's proceedings.)

General Ross: In the first paragraph we say: "In this memorandum it is proposed to discuss only matters of principal involved in the proposed amendments. We desire, during the recess, to analyze such amendments in detail and submit observations as to phraseology with suggested amendments to cover questions of principle involved."

I ask only to discuss the principle of some ten or twelve amendments which appear in this bill. If you will refer to section 3 of the act as it will be passed, you will see that the object of this section, as I understand it, is to merge the present Pension Appeal Court and the Canadian pension commission into one body and absorb in that body the personnel of the existing pension appeal court.

As to that I make this observation—and let me say that while all the organizations here have been in consultation we are not all agreed on principle on everything; generally we were agreed, but not in every detail—consequently, let these observations be taken as the observations of the Canadian Legion, and other organizations may express dissent or desire to accept as the case may be.

Now, the second paragraph in this submission is headed: "Pension Appeal Court and reorganized pension commission, Section 3 (2)."

It is noted that it is proposed to merge the present Pension Appeal Court and the Commission. Speaking generally, so long as the right of appeal is preserved, we offer no objection in principle, our view being that it is the responsibility of parliament to provide the machinery which will most efficiently and economically determine questions arising under the Pension Act and if, in the opinion of those responsible (acting upon the advice of their advisers), they can give better service, more economically, by a readjustment of the machinery, it is not for us to object; reserving the right, however, to make representations in the event of it being found that the machinery established does not function satisfactorily.

In making this submission, however, we desire to direct attention to two portions of our original brief, namely, Pensions (b) (1) Pensions Administration (Page 3) and Pensions (b) (5) Appeals, (Page 5)."

I presume that this blue memorandum will also be incorporated in the record.

The CHAIRMAN: Yes. It will be printed as an appendix.

[General Alex. Ross.]



(Canadian Legion Blue memorandum appears as appendix C to this day's proceedings.)

General Ross: In explanation of this rather unusual statement, I would like to refer to its past history. The history of our Canadian Pension Act is one of constant change, and I might say that I, probably, have been an accomplice to the cries which may have been made from time to time in regard to the changes which have been brought about, but over a period of years I have reached the very definite conclusion that it is distinctly dangerous for anyone who is not charged with the responsibility of administering the act to be too generous in advice as to what or should not be done. In other words, the people who have run the show should have something to say about it. They are responsible, of course, to see that it does its work.

Let us go back and see what has happened. We have had all kinds of commissions and enquiries up to 1928 when more changes were made, but they were not very serious as far as administration was concerned. However, there seemed to be trouble always. In 1930 we had a very long enquiry presided over by our present chairman, and an entirely new set-up was evolved. The old Federal Appeal Board, as such, was abolished, and there came into being the Pension Appeal Court—the Pension tribunals and the Board of Pension Commissioners. Now, I am willing to admit even yet that I think that that was an almost perfect set-up; it seemed to provide everything we required in the way of the proper adjudication of claims: yet the system broke down, and it broke down partly on personnel and partly on administration, with the result that there was another enquiry. I am not going to analyze the reasons why it broke down. I have circulated copies of our report following a meeting of the joint special committee held in 1932-33 in which I analyzed what, in my opinion, are the reasons for the break-down of that system at that time; and you will notice there that throughout the whole report presented by the associated veterans written by myself and concurred in by all of them there runs this idea, that no matter what system is set up it is going to break down unless the personnel administering it are equal to their task—unless it is administering in a proper and humane spirit. There must be co-operation, and I think that was the trouble before—there was no co-operation between these bodies; they were working separately, and the thing failed.

The government of the day set up a commission in 1932-33 which was rather an unusual body in that it consisted of representatives of five of the veterans' organizations and five of the departmental heads. Now, it was presided over by an independent judge. It was a rather useful committee in that we were able to exchange face to face our views on the situation. We got a better understanding of the work and they got a better understanding of our problems. In the result we entirely failed to agree as to the solution. With regard to the chairman, I and my associates were, apparently, unable to convince him, the independent arbiter, of the soundness of our opposition, and he swung his influence with certain of the official members of the board and made certain recommendations.

The government of the day referred it to a special committee for the purpose of considering that report and the committee, quite properly, possibly, proceeding on the basis that the independent judge who had heard both cases would probably be the one who could most safely be followed, recommended that the changes proposed by him should be adopted. The result was that the tribunals were abolished and the Pension Commission was placed in practically supreme authority again.

Now, there was a tremendous outcry again which was accentuated by the fact that the Pension Commission chose at that particular time to carry out a most drastic review which stirred up the situation from one end of Canada to

the other. Lengthy negotiations followed as the result of which it was agreed between ourselves—at least, I may say, at that time our organization was the only one actually in agreement—that the whole thing required some change to humanize it and to make it more efficient in respect to administration. The result was that it was decided that the then chairman should be translated to another sphere and that we should try what could be done with a new administration head.

The question was then discussed as to what we should do with the chairman at that time, and after a long discussion with the Prime Minister himself we agreed that it would not be wise to bring any man permanently who might or might not measure up to the standard required, but that we should endeavour to secure a temporary head in the person of a judge of one of His Majesty's superior courts. That was agreed to in principle, and the Act was amended. As a result the Prime Minister personally selected the Honourable Mr. Justice Taylor of the Court of King's Bench, Manitoba. Mr. Justice Taylor came here on the 1st of August, 1934, and in that regard I would direct your attention to the Prime Minister's statement in the house which is embodied in my brief as follows:—

I have already indicated that I propose to ask the chairman to keep a close record, almost in the nature of a diary, from the time he takes over, indicating any difficulties in the law as he administers it, so that we may be able to understand what the difficulties are.

You will appreciate, as I said in my brief at page 4, that there was something more in mind than simply filling a gap. It was the desire of the government of the day to bring in someone who would combine the functions of administrative head with, we might say, an investigating power under very advantageous circumstances. Indeed, he was able to note the operation of the department from day to day. Now, we are very happy as an organization to bear testimony to the vastly improved conditions which have taken place since this change was made. It is very gratifying to us, after all these years of turmoil, to go among the veteran bodies of Canada, as I have had occasion to do this year, and to find that the name of the commissioner is received with acclamation. This was not always the case. It is not that Mr. Justice Taylor has handed out any more pensions—I do not think he has to any great extent—but I think he has been able to introduce an element of humanity, understanding and contact. As part of his policy he has established contact with the veteran organizations in a sympathetic way. In other words, he understands the veterans because he has always been with them, and they understand him because they meet him. As a result we have justified our claim that, after all, the great problem is administration and personnel, and have proved in this case that that is the fact. In other words, I take some little credit in saying that I believe the report of 1932-33, in which these factors were so strongly expressed has been justified in the light of experience. I mention that as you approach this problem. As I say, I do not care what you do. Successive parliaments have tried to legislate here and there. There have been all kinds of suggestions, even to the breaking up of the present machinery and installing something new; but I say after five years of close contact and ten years of less close contact with this problem that I do believe that the matter of personnel and of administration is the crux of the whole situation, and any reasonable organization will work if these things are carried out. My suggestion is this—and I hope I am not presuming in making it—that Mr. Justice Taylor was appointed for the express purpose of administering the commission and also of investigating it, and that you should endeavour to secure his information on the subject as you approach the very difficult problem of determining the course to be followed in the future. I have no idea what Mr. Justice Taylor will say. I know him intimately, but I do

[General Alex. Ross.]

not presume to encroach upon his confidence in these matters between himself and the government; but I do think that his information should be made available to you, and you should endeavour to find out from him what changes are necessary in his opinion, and then it is for you to say whether you think those changes are advisable. Let us get rid of this constant turmoil, this changing and turning around, so that we may be able to stabilize the situation as far as that is humanely possible. Let us be frank. I never expect it to reach that state of perfection where everybody is going to be satisfied; that is impossible; but what I said to the last government and what I say to this parliament is that what all the organizations would like is an administration that they can defend, and they will then take their part in stopping the agitation if they have an administration that they can defend.

Many times in the past they have not been able to do so because things have been done in the name of the law which could not be defended. That is our position. We are prepared to take a strong stand in the interests of stability; but I do ask that you give us something which we can reasonably defend as the situation develops.

The CHAIRMAN: As I understand you your suggestion is that the committee should call Mr. Justice Taylor as a witness.

General Ross: Yes. That would be very useful. After hearing him, possibly we might be able to offer some further observations; but remember we are prepared to co-operate with you gentlemen, and we do not wish to express our views too strongly except to say this: that having had these troubles all these years we are anxious to get rid of them, and we are prepared to co-operate in every way. However, I do stress the point that you give serious consideration to our observations as presented in our last investigation which we believe have been justified by the facts.

Now, that is the situation there. In this connection, however, I desire also to direct your attention to the matter of changed appeals which appears on page 5 of our blue memorandum (appendix C). Under the proposed legislation the Appeal Court would be abolished; therefore, probably, this reference is unnecessary; but I feel I should direct your attention to this because it may be suggested, which is not the fact, that I thereby cast reflections upon one for whom I have a great respect and who is a personal friend of mine, the chairman of that body. Let me make it perfectly clear that that is not the case. Mr. Justice Hyndman, I think, in the manner in which he dealt with the veterans' problems in the report of his commission, indicates, I think, that he is heart and soul in sympathy with the veterans and, therefore, any suggestion of unkindness on his part would not be justified.

When this proposal was first made—and I think I was one of the first persons to see it—what was said was that if this goes into effect we should be able in a short time to build up in this country a body of pension jurisprudence which will enable us to decide all cases automatically. That is correct. The appeal court has perhaps served a very useful function in that respect and many of the decisions are of considerable use, but, unfortunately, the appeal court got a very bad start. There was, as you all see by the 1933 report, considerable antagonism, and the then Board of Pension Commissioners simply flooded the court with appeals on every hand, and the court got away after a bad start. You will find that in 1932 and 1933 there were criticisms of that court. At that time I analyzed the criticisms which were submitted to us carefully, and as a result I was unable to find that there was any criticism justified. Notwithstanding that, however, it has gone on, and as a responsible officer of a responsible organization it is my duty to make a statement here to-day with the understanding that I am not giving it my personal endorsement, which is a fact. It is a



feeling that exists in the country, and since it exists it may militate against the further working of the pension organization because in order to have efficiency we must have confidence and also harmony. The statement is as follows:—

Undoubtedly the attention of the committee will be directed to the operation of the Pension Appeal Court. . . .

If you do not do it somebody else will, and doubtless many of you gentlemen have had many violent representations made to you. I continue to quote from our blue brief at section 5, page 5 (appendix C):—

The Canadian Legion regards the right of appeal to a separate body as a very valuable one and one not to be lightly disregarded, in fact, the principle of the right of appeal has been so long established in our system that we do not think it should be abolished. We know, however, that there is much dissatisfaction with some of the decisions which have been rendered by the Appeal Court. We ourselves make no specific representations, recognizing that this body is to all intents and purposes a court with all the rights of a court and entitled to the respect of a court, and we would not like to associate ourselves with criticism which would be considered improper in regard to any of the other courts of the land. In view, however, of the existence of what we may describe dissatisfaction in regard to this body, we suggest that the committee should make some enquiry with a view to determining whether there is any justification for the criticism and if so whether any steps could be taken to remove any cause of criticism.

Now, I think that is a fair statement to which that court could not take exception. I am stating that that fact exists, and if that dissatisfaction exists then it is for us and perhaps you to endeavour to discover if there is any cause for that dissatisfaction and to endeavour to remove it. It is desirable in the interests of justice and law and order in this country that such an organization should be treated with respect, and if there is any suggestion that a body such as this is acting in a harsh and arbitrary manner then that suggestion should be dispelled. Therefore, I suggest to you that possibly in the course of your enquiries you might find it possible to discuss this matter, perhaps with the departmental officials and with the members of the court itself, and get a true view of what exists. I know you have a hard job to do, but it is a difficult matter for laymen to understand the meaning of those judgments. In many cases, I am afraid, some of the members of the court have written their judgments out in rather too technical and logical a manner for a matter of this character. That is a matter of the personal equation; no two men can think alike. The idea is to get the matter over to the troops. This is the sore in the body of the pension structure, and it must be dispelled, but we hope that you will investigate it at the same time.

Mr. MULOCK: Do you think that one of the chief troubles is the long delay experienced by the men in obtaining a final decision on their claims when they do not know where they stand?

General Ross: Undoubtedly, that is part of the trouble, but that is inevitable—it is not so inevitable now as it was. The situation is this that when the legislation of 1930 came into effect the commission was flooded by the opening up of a tremendous number of claims that had been previously barred, some 10,000 of them.

The CHAIRMAN: Every claim which had been heard and which had been disposed of unfavourably to the applicant had to be heard over again.

Mr. MUTCH: That means 85 per cent of the claims.

The CHAIRMAN: Any man who was not satisfied with any decision given had the right to come back again, and he has had his right ever since.

[General Alex. Ross.]

General Ross: And then the quorums got going, the tribunals got going, and they handed those cases out to them and they got blocked up. They started giving judgments, and I think their average was about 50 per cent entitlements. But the chairman of the Pension commission did not agree with their decisions, and the result was that he upset practically every one of them. The applicant also thought that he had another source to go to so he appealed too, and the Court of Appeal was hopelessly crowded.

The CHAIRMAN: Pardon me. Perhaps you had better state that there was an automatic appeal.

General Ross: From what?

The CHAIRMAN: From the decision of the tribunal, was there not?

General Ross: Oh, no.

The CHAIRMAN: But there was an automatic appeal from the commission.

General Ross: In the 1933 amendment we cleared that up to a large extent. In that case the right of appeal was taken from the chairman of the board and was put into the hands of the reviewing officer who has done a good job. In other words, the amount which was up in the thousands has dropped to small proportions; but the men can still bring these matters up, and they keep on taking their case to the Appeal Board. Of course, that is where figures are not always a true index of the court's usefulness, because there are a great many cases of last hopes where a man is advised not to go but he has a right to go and does go and, therefore, there is congestion.

As far as the delay of the quorums is concerned, that is inevitable, and that again takes us back to the point which I took up in my brief.

In that committee report of 1933 we specifically declared that. In our opinion addressed to the chairman of the committee and subsequently adopted by the select parliamentary committee we stated that it could not do the work. The government of the day on the advice of the parliamentary committee disregarded our advice, and it was not more than 6 months before they began to realize that they should have far more commissions, both from the standpoint of time and of work involved to deal with the situation. We urged on the minister that he should arrange for the appointment of ad hoc commissions to assist in the carrying out of the work. They did not have adequate personnel. The whole organization was held up and consequently the men suffered. In the light of the experience behind us we can now see the wisdom of that advice. I believe, however, that the number of cases outstanding has been greatly reduced through the work of the Reviewing Officer.

The CHAIRMAN: Do you know the number of claims the Reviewing Officer has been able to dispose of?

General Ross: Mr. Hale, do you know that?

Mr. HALE: I haven't the figures here. I think you will find them in the annual report. But I believe the number of cases appealed on the advice of the Reviewing Officer is very small.

The CHAIRMAN: Is it safe to say that the number of appeals taken by the Crown from findings is less than 100 now; that is, in a year?

Mr. HALE: I think that is right.

The CHAIRMAN: I think it was 85 in the year 1935. I think that is the number of appeals taken by the Crown from the findings of the court. I will try to furnish the committee with the figures.

General Ross: I have received no complaints whatever as to the Reviewing Officer. That arrangement seems to be satisfactory, or I would have heard about it. It has worked beyond our fondest expectations.

The CHAIRMAN: I say with you, I was opposed to the Reviewing Officer too.

General Ross: We must admit that the present incumbent is working very satisfactorily. There is the history of the whole thing. It has been the cause of the congestion from the start. Insufficient personnel has been the source of constant dissatisfaction.

*By Mr. Much (to General Ross):*

Q. Is it not a matter of fact that this criticism of the Pension Appeal Court, which appears in paragraph 5 on page 5 of your submission, is very general amongst the men whom you represent, and that it relates very closely to your statement of a few minutes ago that it is a question of personnel rather than of machinery. In other words, is not the complaint a complaint as to personnel rather than of the Pension Appeal Board?—A. I would not like to say that.

Q. I am not asking you to express your opinion. I am asking you if it relates to that sort of thing?—A. Yes, I do believe it does. Personally I would not say a thing, I would not criticize. I would say that there is the idea abroad that certain members of the board are not entirely sympathetic.

*By Mr. Mulock:*

Q. There is a feeling abroad that they are not entirely sympathetic?—A. I deal more fully with that later. If you go into this thing and analyze it you will find that there is no ground for that widespread dissatisfaction. There may be grounds for dissatisfaction in one or two cases; but I take very strong exception to that attitude myself.

*By Mr. Mutch:*

Q. Is it not generally believed that the criticism of the Pension Appeal Court is not of the court as such, but criticism of the personnel arising out of the unsatisfactory view the men take of their decisions. I do not think there is any exception to the Appeal Court as an Appeal Court properly meant?—A. Not to the principle of an Appeal Court.

Q. Yes?—A. There is no objection to that.

Q. In other words it is purely following the decisions, that the present Appeal Court is so constituted, and that relates back in terms to the personnel?—A. Let me make it quite clear, I do not want to deal in personalities. This is what I would say: that the general feeling as I find it, moving around the country, attending conventions and meeting these men in the course of the year, there is the feeling that the court is functioning as a brake in its interpretation of the Act. Now, that is a fair statement. As I say, I cannot associate myself with that criticism. It is very difficult for a lawyer in the position in which I find myself to say that another lawyer is doing something that he should not do.

*By Mr. Brooks:*

Q. Is it a fair question to ask with respect to the appeals that have been taken that the Appeal Board have been justified in turning them all down?—A. I cannot answer that question just now.

The CHAIRMAN: It is not fair to ask one judge to criticize conditions in another court. I think that is a rather embarrassing question.

General Ross: Let me answer it this way: if you will refer back to 1933 you will find that on that occasion I made it my business to act as a sort of superior court of review on some three months of their judgments, and as a result of that I gave them a pretty good bill of health.

Mr. MUTCH: We would not hold that against you.

General Ross: I know people who do hold it against me.

[General Alex. Ross.]



The CHAIRMAN: Before you leave that perhaps I might make the record clear: in 1930 the Appeal Court was constituted largely because the soldiers felt that they wanted an appeal court; but at the same time it was decided by the committee to have before the tribunals representatives both of the Crown and of the applicant. The reason for that was the committee had the idea that if the Crown were not represented the members of the tribunals would feel in duty bound to subconsciously or unconsciously protect the interests of the Crown, because if someone appeared on behalf of the applicant and no one appeared on behalf of the Crown they would feel that they had to protect the interests of the Crown. My recollection is that after a pretty thorough discussion in the committee we came to the conclusion that if we did not place members of the tribunals in the position of impartial judges to hear both sides of the case they would inevitably feel that they had to defend the treasury; and that it will be remembered was one of the complaints against the old Board of Pension Commissioners, that unconsciously perhaps they felt that their job was to see to it that every available source of information against the applicant was collected so that they would see that the Crown was not being mulched out of something it should not be. In order to do away with that and to place the tribunals in a fair and impartial position it was thought well to have both sides represented. Then, and I think possibly this is the result of the manner in which the commission counsels were instructed to carry out their work, the commission counsel in a very large number of cases I am told—and I know in the only case in which I ever appeared—in a very large number of cases just sat in at the preliminary hearing, just sat there and offered no comments, whereas, the Act specifically laid down that they should act as a Crown Attorney in a criminal trial, endeavouring to give the fullest possible information on the case but not to fight on behalf of the Crown. The duty of a Crown Attorney is to lay before the court and jury all the available facts so that they can come to a decision. It was thought that the commission counsel, crown counsel, would do the same work; but as a matter of fact in a very large number of cases they just sat there and did nothing. But immediately a decision was given by a tribunal orders were given to them to appeal, and they flooded the Appeal Court. There were some thousands of these appeals. There were 2,000 or 3,000 of them; and that I think helped to damn the Appeal Court before it ever started to function. In all these cases in which favourable decisions were given by the tribunal, and where to all intents and purposes the Crown did not have any objection, appeals were immediately taken, apparently without rhyme or reason. The Appeal Court when it began to function rejected a large number, or confirmed the appeal of the Crown in a large number of cases; owing largely, I will say, to the fact that Crown counsel did not do their duty before the original court, the tribunal. Then, of course, the Appeal Court became clogged. But what is worse still the poor unfortunate applicant who had gone away from the tribunal perfectly satisfied that his claim had been listened to, and that he had had judgment in his favour, two or three months afterwards would find that judgment reversed and that he did not get any pension at all. This immediately brought storms of abuse from one end of the country to the other. I am not saying that to defend the Appeal Court or anybody else, but just to explain the situation as I see it, and as the result of which the Appeal Court got a black eye, and it has not recovered from that yet.

General ROSS: That is the way; give a dog a bad name and it will stick.

The CHAIRMAN: That is about the story.

General ROSS: That is absolutely correct.

Mr. MALCOLM McLEAN: Can you give us any information as to whether or not Crown counsel acted on instruction, or if it just happened that they were that kind of counsel.

The CHAIRMAN: I do not know. Their instructions must have come from the Board of Pension Commissioners.

Mr. MALCOLM McLEAN: To just sit in in the early stages?

The CHAIRMAN: I do not know about just sitting in. The instructions as to appeal must undoubtedly have come from the commission, because that was the function of the commission.

Mr. MALCOLM McLEAN: But it was because of their inactivity before the Tribunals then that these appeals were taken.

General Ross: I think that was a matter of personalities. The minister has seen one type and we have seen another type. Who I may say transgressed all the rules of legal etiquette, by acting not only as prosecuting attorney but as something worse.

Mr. Mutch: That is the weakness of any legislation the principal objective of which is to keep people contented and happy. You are trying to work for them by legislation applied through an organization, and whether justly or unjustly such an organization becomes about as unpopular as it possibly can. In that way you are setting a handicap for yourself from the beginning.

The CHAIRMAN: Don't forget for a moment that when anyone becomes a salaried employee of this department the soldiers say he has been bought.

Mr. Mutch: It is a soldier's privilege to grouse; but there is no reason why it should be aggravated.

The CHAIRMAN: That is the fact. If you take a man who is considered to be most sympathetic to soldiers and put him on a salaried job in the Department of Pensions everyone will say that his job now is to prevent them from getting a pension.

Mr. Mutch: I think there are still two exceptions.

General Ross: What the minister says is absolutely correct, and it is handicap to us in our work. A great deal of misinformation on that point has been given out to the public. I want to say that my experience is that these men are doing their very best.

Mr. Mutch: Your administration indicates that it is possible to get people quite satisfied, even soldiers.

General Ross: Yes.

*By Mr. MacNeil (to General Ross):*

Q. I would like to ask the General if he has given consideration to the manner in which evidence reaches the Pensions Appeal Court. He stated that it functions as any other court would, basing its decisions on the evidence actually before the court. Are any of the men handicapped in their appearances before that court because they are not able to incur the expense of securing that evidence? The applicant was possibly handicapped because of circumstances. Is it not true that decisions have been rendered where later it has been shown that the evidence was not complete?—A. Many times the court has sent them back. I am not prepared to say that that condition exists. As a matter of fact when the quorums first came into being I had occasion to go to the minister and protest most strongly as the result of personal observation of the manner in which evidence was being taken. I personally witnessed before a quorum the greatest travesty of justice I ever saw in my life. The minister, of course, gave instructions to correct these things. Really, there is the difficulty. Remember now that you are trying to tie in with a legal body what is a lay body; and I think that is probably where we were wrong, you and I, because we disagreed on that; but that system had to work, a body with a legal function was operated very largely by non-legal men; that is, by men with non-legal training. The difficulty is in getting evidence properly before these bodies. Now, there is

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a pernicious system which has grown up over the years in respect to medical evidence. Apparently a doctor is not to be believed because he cannot produce records. In my opinion that is absolutely unsound, but still the thing goes on. The question is not whether the doctor has records, but whether he is telling the truth; and if you are convinced he is telling the truth you should believe him regardless of his records. That is a fundamental principle. The Appeal Court is handicapped there in that regard.

The CHAIRMAN: I well remember the burst of applause which greeted my suggestion that members of the tribunals should not necessarily be legal men. Everybody cheered that. I do not know whether they want legal men back or not; but at that time the veterans, members of the committee, the newspapers and everybody else said; this is great, we will have decisions that will be fair.

Mr. MUTCH: If at the same time you had taken a soldier for one of your judges you might have gotten somewhere.

The CHAIRMAN: I think Mr. MacNeil's complaint lies largely in the preparation of cases; because they were not properly prepared before submission to a quorum.

Mr. MACNEIL: Possibly that was due to lack of facilities for getting evidence of a certain character.

General ROSS: I fully agree with that.

Mr. MULOCK: While we are on this, when a man is called up for re-examination does he have to report at his own expense?

The CHAIRMAN: I do not think so.

General ROSS: No.

Mr. MULOCK: All right. Supposing he has to provide witnesses—it is different in large cities.

The CHAIRMAN: You mean, for re-examination?

Mr. MULOCK: Well, no; supposing the re-examination has resulted in the reduction of pension; where he is appealing he needs witnesses and in a city it is fairly easy to get them, but where you have men in out-lying districts it is often very difficult. That is so particularly where the man is on relief or where the witness is on relief and where it is very difficult for him to get the money with which to get in and to give evidence.

The CHAIRMAN: Is this before the quorums?

Mr. MULOCK: Before quorums in the first instance.

The CHAIRMAN: When it is before the quorums we have endeavoured to get authority to allow the quorums to limit the number of witnesses to a specific point, because of the very large number of cases men want to bring in everybody,—all his neighbours, everybody who served in the same battalion with him and who might be able to give evidence as to what went on on a certain day. You do not need ten witnesses to show that a man had a headache at a certain time.

Mr. MULOCK: But if the evidence is necessary the quorum might pay the expense of the witness, if they thought it desirable?

The CHAIRMAN: Yes.

Mr. MALCOLM McLEAN: Where a man is a veterans allowance applicant does the board pay his expenses. I think that would be only fair. I do not think he should have to come at his own expense, because in many of those cases they are the most helpless.

The CHAIRMAN: Mr. Woods is back there.

General ROSS: I think it does pay expenses on occasion.

The CHAIRMAN: I think it does.



Mr. MALCOLM McLEAN: I know it does on occasion, but it is not general.

The CHAIRMAN: When we get down to war veterans' allowances we can take up representations relating to that subject.

*By Mr. Malcolm McLean (To General Ross):*

Q. I was going to ask a question of the witness. What is the percentage in the Tribunals of legal men and lay men. It was formed as a lay man's organization?—A. I think it is about 40 per cent lay. I think there were four lawyers altogether out of a total of 12.

Q. Four out of twelve; that would be about one-third?—A. That is my recollection at the moment.

The CHAIRMAN: Do you want to know whether they were the best?

Mr. MALCOLM McLEAN: I am inclined to think they were not the best, from my observation; I was satisfied with the legal members on the Tribunal.

Mr. MUTCH: If they had to present their evidence to the judgment of legal men they would certainly have to have a lawyer to do it.

*By Mr. Streight (To General Ross):*

Q. Do you think these legal men would not be able to tell when a man was telling the truth?—A. I did not suggest that, or anybody else.

Q. I have a case right here where four specialists examined a man and they put it down to war service. He has been up three or four times to this Tribunal and elsewhere, and they have turned him down every time. Now, the Tribunal must think he is telling a lie, and these private specialists must think he is telling the truth. How are you going to overcome this?—A. I could not answer your question without seeing that particular file; but I do not think that happens very often. Usually when a certificate is attached the man expects to receive a pension. They are received from doctors all over the country, but I do not know that very great weight attaches to them because it is very easy for a doctor to state that in his opinion a disability is due to war service. Of course, that does not prove anything, it is merely the doctor's opinion and I think we will need to have facts to support it. I suppose the report of the specialists supported it in that case. I should say that that evidence should be accepted, unless there is something else to contradict it.

Mr. MUTCH: It is at least evidence.

General Ross: It is accepted if there is something to support it. It is rather a general statement for a doctor to say that in his opinion a condition is due to war service. That by itself cannot possibly get you anywhere.

Mr. MUTCH: It is not offered as casual evidence, it is his considered opinion and he is trained in the business and should know. It is an effrontery for a man not an expert to refuse to accept such evidence.

The CHAIRMAN: I think we better get on with the witness.

General Ross: I draw your attention next to subsection 10 of section 3, subsection 15 of section 3 and section 4, dealing with the staff of the commission. We say:—

If in the interest of economy and efficiency any rearrangement of the staff of the commission is necessary, we feel that it is not for us to offer any objection, but in the interests of the pensioner and for the purpose of enabling the commission to function satisfactorily, we desire to suggest that the principle that there should be no outside interference with the staff allotted to the commission, should be preserved. We do not assume to know how this can best be accomplished, and we are not prepared to suggest any specific amendment, but we urge that the principle should be plainly stated and that the staff assigned to the commission shall not be

controlled or interfered with except by the minister, on the recommendation of the chairman, or upon the initiative of the minister, after consultation with the chairman. In other words, that the chairman shall have exclusive control of the staff assigned to the commission, while discharging such duties but that the minister shall have authority to make such transfers, or other changes, as may be necessary for departmental efficiency.

The idea is that the commission is entirely separate from the department and they can do as they please. The present proposal suggests that in the interests of efficiency this staff should come under the direction of the minister, and under his jurisdiction. That is what the minister proposes. We say, very good; but once the staff is allotted to the commission it shall not be subject to outside interference. The reason for that is this: the commission acts very largely on the advice of medical advisers, consequently we do not want any opportunity for any other interference at all with the medical advice which is tendered. We are not suggesting there would be, but there is always that danger if it gets away from the commission; so we want that noted.

The CHAIRMAN: Are there any questions on this point?

Sir EUGÈNE Fiset: Apropos the staff mentioned in that paragraph, is it under the control of the Civil Service Commission?

The CHAIRMAN: It is. Frankly, since I have come in I do not know who runs that staff, except that I do not. I find this: for instance, if there is a vacancy in the staff of medical officers on the Board of Pension Commissioners. Along side, in the same department, there is a surplus—in the department, properly so-called. The commission can go ahead and ask the Civil Service Commission to fill that particular job, get a new man in. At the same time half the staff is under my control and some of it is not working while the other half of the staff is overworked. So I thought that the minister should have at least some control in filling these positions, and not have too many on the one hand and not enough on the other. The same thing applies to stenographers and clerks and all the rest of the staff. I do not think there is any real necessity for them being independent of the minister, and of the department generally. There is no reason why they should be in a properly operated department with the minister willing to furnish all the assistance necessary. I contend that he should have at least some control over the expenditures that he has to defend in parliament.

Mr. Mutch: I assume that this bill takes care of that.

The CHAIRMAN: The bill tries to take care of that.

Mr. MALCOLM McLEAN: Is there any way at the moment of transferring a medical officer say from Saskatoon to Regina or from Calgary to Edmonton?

The CHAIRMAN: Frankly, I do not know. I am all mixed up on this. Apparently over a term of years a system of some kind has grown up which I have not been able to fathom as yet. I think it will be possible while giving to the commission all the independence that it required for its work, to make its decisions and to carry on its investigations as a commission, at the same time to give the minister a measure of control over this staff.

Some Hon. MEMBERS: Hear, hear.

Mr. MACNEIL: Are there two medical staffs? Is that the situation?

The CHAIRMAN: Yes.

Mr. MACNEIL: If you made the proposed changes you would have to guard against bringing the medical authority of the commission under the control of the medical authority of the department; that might be undesirable.

The CHAIRMAN: I think we can arrange to take care of that. I am quite willing to listen to any suggestions which may be offered. There is objection to the medical authority of the commission being under the medical authority

of the department. However, that is not the principal question. It is rather a question of personnel, and perhaps that can be worked out satisfactorily. At the present time if there are any changes in staff or anything of that kind—promotions, or the appointment of permanent staff—what happens is that there is a document left with my private secretary and it comes in to me. I do not know what it is all about. I am just supposed to sign it and send it down, or over to the Civil Service Commission. I think that at least I should know what I am recommending and have some responsibility in saying as to whether such a recommendation should be made by the minister or not.

Some Hon. MEMBERS: Hear, hear.

General Ross: The next part of my memorandum refers to section 5, which is the jurisdiction section. We approve of the section as redrafted, but I take occasion on passing that section to draw your attention to my observations on page 4 in my original brief.

*By Mr. Betts (to General Ross):*

Q. I do not quite grasp the meaning of section 3. Just before we leave it—I am new at this—am I right, that the pensions staff is now appointed by the Civil Service Commission?—A. Yes, by the Civil Service Commission; but not control of the staff.

Q. And, is my understanding of your recommendation right, that you think this practice should be discontinued?—A. No, no. I have no intention of interfering with that at all.

The CHAIRMAN: No, that is not the issue. There is no question anywhere of taking the staff of the Pension Commission out of the control of the Civil Service Commission. It is only a question of ordinary routine by the department, that at least the routine proceedings should go through the minister; that he should have some control as to the number of the staff, and as to the functions which they shall perform; and be enabled if he has a surplus in one branch to use it in another. What I seek to do is to save a little money in the department and to achieve greater efficiency. This year we have been cut down on our salary item by a considerable amount, and we have got to take that into consideration.

Mr. REID: There are occasional calls for medical men. Who makes the appointments to fill the vacancies?

The CHAIRMAN: The Civil Service Commission.

Mr. MUTCH: They are only responsible to God and if they do not believe in God they are not responsible to anybody. I suppose the minister has in mind that there are two separate investigations, one for the commission and one for the department.

The CHAIRMAN: There is this difference also; that the commission doctors deal largely with entitlement and assessment. I am told that that is a special branch of medical knowledge. General Fiset well knows, for instance, that certain medical men are employed by insurance companies because they have special training in assessing injuries; and they are employed by compensation boards, and so on and so forth. I should imagine that the pension doctors should know more about that particular branch of their business. But when it comes to taking new men in, I would think that a new man who has had no experience would not be so good as a man who has been in the other branch and who would at least have touched the fringe of it. I think it would be better to take such a man than to bring a man in off the street and put him in. If there was an over-supply of doctors in the pensions section we could transfer one to the treatment branch.

Mr. MACNEIL: You want control of staff arrangements. I understand that the general opinion is that we should preserve the commission principle. In

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dealing with pensions decisions through the years we have tried to hold to that principle. I do not think it has ever been said that political considerations have governed decisions of the commission.

The CHAIRMAN: That is a principle we should continue. As all of you members of parliament know—I know it—we receive hundreds of letters—I receive more than a hundred every day, asking me to please grant a pension. The public does not seem to understand that the Minister of Pensions has no more control over the granting of a pension than the man in the street, that the Pension Commission is a judicial body. I have no more control over that than I have over the Supreme Court of Canada. I think we should get the public to understand that. If we did a lot of us would be saved a great deal of work. The public does not know that though; they think all the minister has to do is to say, you're a good fellow, here is a pension for you. That is not the case. I want to make the statement to you that I do not know the members of the pension quorum. There are some of them to whom I have never spoken. Of course, I have spoken to Judge Taylor and to Judge Hyndman. I think that is as it should be; that the minister should have no control and should have no opportunity to use his influence whatever. When I receive a letter from any of you gentlemen, or from anyone outside, I simply act as a traffic policeman and pass it on without any observations on it; and when a reply comes back I merely send on the reply.

Mr. MALCOLM McLEAN: That means you do not want us to write you any more?

The CHAIRMAN: You may write all you like. That is the treatment your letters will get. I think this is one principle that should be made secure; that is, that no politician should interfere with any decisions of the court.

Some Hon. MEMBERS: Hear, hear.

The CHAIRMAN: Let us get that well understood; that in so far as we are concerned the Pensions Commission is a judicial body, just as is the Supreme Court, or the Exchequer Court or any other court in Canada. After all, this commission is the highest court from the standpoint of the monetary issues involved. We are paying out \$40,000,000 annually in pensions and that is 4 per cent of a billion dollars. No other court functioning in the last few years has ever done that. There are claims before the pension courts now ready for hearing numbering about three thousand. Those are claims in arrears. There are outstanding something like ten thousand. If you take each one of those to be a potential full disability claim they would be doing business in one year involving between \$90,000,000 and \$100,000,000. So there is no more important court from the standpoint of the amount of money involved in the whole country than this pension commission. It is, therefore, quite clear that nobody will want to interfere with it, and God help any political minister who wanted to try to interfere in a case for pension; his life would be a mess. They have done that in the United States, and you know what has happened there. I understand that in England the Minister of Pensions is technically the man who is supposed to grant pensions, but he is so protected by experts and different things that the pensioner never gets near him. Is that not so?

General Ross: There was a seven-year statutory clause. After seven years the minister, on his own responsibility, may allow a man in on his own case. I think everybody agrees that we do not want to introduce that system in Canada. Without any reflection on the minister, I like him too much to impose that on him.

The CHAIRMAN: As to the staff, at the present time, the War Veterans' Allowance Committee is functioning very well, and the department furnishes it with its staff. We do not interfere with its decisions. The department gives it all the staff it requires, and we would like to be able to do that for the Pension commission also, preserving to the fullest extent its judicial function.

General Ross: As I said, sir, we accept section 5 as amended as being very satisfactory. In that connection it refers to changes in the basis of entitlement and so on. I wish to refer the committee to a difficulty which we have experienced. In fact, the commission's decisions are very frequently nullified in the treatment branch by changes of diagnosis and so forth. Now, I am filing a number of cases here. I shall not go into them in detail, except to give an outline. I have here one case in which a man has entitlement for valvular disease of the heart. I have all the files available. This man had valvular disease of the heart and myocarditis due to syphilis, aggravated, and has developed mental symptoms attributable to V.D.S. He has been admitted to hospital as class 16B (mental), but treatment was refused as a class 1 patient because the medical officers of the department refuse to recognize the existence of V.D.S., although this has been found to be present by the Canadian Pension Commission.

Now, there you have an extraordinary anomaly. That man was pensioned by the board because he had syphilis, aggravated, and the treatment branch having got him in hospital examined him and said that he never had syphilis and consequently would not treat him. That is only one case, but it causes trouble.

Now, there is another case—I have several samples here—I will pick out the distinctive ones. Here is another case with regard to the changing of entitlement. Remember, the Board of Pension Commissioners have recently issued a new regulation which will cut off to a very large degree the constant reviewing of cases, but, of course, that does not affect the men in hospital. Naturally, their cases have to be constantly reviewed, but that is not the kind of case I am referring to. Here is the case of a man who was entitled to 100 per cent for dementia praecox. He was called into hospital for six months' observation and at the end of six months they found there was nothing wrong with him. His pension was cut off and he was turned out and wandered around the country penniless for some time until he was picked up by the police in a state of collapse when it was found that he had a severe heart condition. He is now entitled to 100 per cent pension.

General Ross: He has a bad heart and a bad head. The man was discharged from hospital and his original entitlement granted by the board was changed to nothing. He was then picked up on the streets in a state of collapse. There may be few cases, but one case like that can cause a tremendous amount of trouble. We should have some finality and not be changing a man's entitlement.

I have a case here of which I have personal knowledge and which extended over a period of four years. This man has a long war record, first contingent, four years' continuous service in France and wounded. On returning from overseas he became mentally deranged and after many applications he came before the Federal Appeal Board and was given entitlement for psychopathic personality, aggravated and was admitted for treatment. Now as you know, by the act no one has any power to change an award of the Federal Appeal Board, so you would think that this man when in hospital was quite safe. He was not, because they looked him over and they said, "he may have a psychopathic personality with the Federal Appeal Board but what he has now is Huntington's chorea, just a congenital condition, not pensionable and will not require treatment for it." His compensation was cut off and his wife was left a public charge, and it took four years to get him reinstated. Now he is back in the pension commission and they have put him back at 100 per cent. I suggest that there should be some cohesion between the two departments particularly in regard to the mental cases which are the most dangerous of all. I do not know if you gentlemen have gone through any of those wards, but I

[General Alex. Ross.]

can assure you that it is a most distressing thing for one who has been a soldier to go into those wards and see those men in the condition they are. It does not matter whether the name happens to be psychopathic personality or anxiety neurosis they burn the body and soul up, and the amount of money is negligible. When you come to review this section I wish you would try to see if it is not possible to adopt, as I suggested in my brief, the British system of not correcting mistakes except for fraud. The British situation is a good deal harder than ours but they get by with a good deal less trouble. They do not have this constant turmoil. If the board makes a mistake they stand by it. The board is a judicial body, and being a judicial body why should it be allowed to correct its mistakes any more than any other judicial body. If I give a judgment to-day based on a judgment of the Supreme Court of Canada and two months hence I discover that the judgment had been overruled by the Privy Council I could not change my judgment to make it right unless it had been appealed, nor could any other court. I do not see why this court should have any other power. Two men sitting in judgment say that a man is entitled to pension and that decision should stand unless the man has perpetrated some fraud. We will go a long way in solving our difficulties if we can make that effective.

The CHAIRMAN: How far does the last ruling or order of the Canadian Pension Commission go in meeting you?

General Ross: It does not go all the way; it only means the men who are in hospital and are not called up periodically. All men going into hospital necessarily are reviewed.

Mr. BOWLER: It is when they go into hospital that the diagnosis is changed.

The CHAIRMAN: It is only a small portion; the bulk of the cases have now been dealt with by the recent order of the pension commission.

General Ross: Yes. My present recommendation was drawn before it was done and it is not banned to that extent. We are satisfied with the action taken because we have achieved some degree of finality in the case of men not in hospital.

*By Mr. Hamilton (To General Ross):*

Q. When these men are reviewed by the hospital by whom are they reviewed?—A. The medical staff.

Q. They are entirely distinct from the staff giving the pension?—A. Yes.

Q. There is no relationship between them at all, is there?—A. They make the medical report. I saw a report the other day where a man was examined by five men—a surgeon, a bacteriologist and a lot of other people who made their reports, and it was boiled down by one officer and sent to the department and they made their findings on the evidence of five doctors.

Q. Do I understand that they overrule the decision of the Pension Board?—A. No. The treatment branch does frequently. They say: he has not got what you say he has. You may be paying a man a pension for a certain disease, and they will not pay him because they say he has not got that disease.

The CHAIRMAN: He has an opportunity in the present legislation. In the final analysis his pension is not taken away unless the Pension Commission decide that it shall be, and they have an opportunity to check everything.

Mr. BOWLER: In any case, he may be deprived of his pension.

Mr. MUTCH: Do I understand that with regard to men who are pensioned the practice of calling them up periodically to be re-examined has been discontinued?

General Ross: Yes, they can go up themselves if they feel that they need an increase, but the department will not call them up for the purpose of decreasing them.



The CHAIRMAN: We will produce that last order which was issued about December.

Mr. MALCOLM McLEAN: Those who were called up in the past two or three years and reduced in their pension, may they come up again?

The CHAIRMAN: Under the amendment to the act passed in 1933 their pension cannot be cut down unless their case goes before a quorum.

Mr. BOWLER: That is the basis of entitlement; the assessment can.

Mr. MALCOLM McLEAN: Could they go back and apply?

General Ross: Under the terms of the order in council.

The CHAIRMAN: They can always do that.

Mr. BOWLER: It is still open for them to apply for increased assessment. If they can show cause they can get it.

The CHAIRMAN: The trouble is that they apply about every two weeks—some of them. We are not going to go in for any general review of pensions. As a matter of fact, that was pretty well done between 1932 and the present day.

*By Mr. MacNeil (To General Ross):*

Q. Could General Ross throw any light on the difficulty we are having with regard to mental cases where the diagnoses have been changed and where the trouble originated because of a review of the cases?—A. That is a review that goes on constantly. These people are under closer supervision than any other class of pensioner, and they are visited two or three times a year. You frequently find that some other condition has developed upon what he had before, and you find lines being drawn between the degree of disability in one case and the degree of disability in another which I submit is rather difficult. If a man has two forms of insanity, it is pretty difficult to say which one is the more important.

Q. I have had quite a number of cases of this character brought to my attention, and I would like to ask at this point if we will have evidence on this matter. Men who should be protected by reason of having served in an actual theatre of war and have received pension until recently are now being reassessed, and it is held that a certain portion of the disability is of constitutional origin and a certain portion arose during service with the result that they are totally incapacitated and they are only receiving 10 per cent. Shall we have supplementary evidence on this point?—A. I have drawn attention to this one particular department in which this one particular thing arises where we have difficulty in having the findings of the commission undermined by rulings of the departmental officers. Those are the cases, and I suggest you might investigate those and find the root of the trouble. I suggest it is fundamentally unsound. If a man is already mentally deranged you are driving him completely crazy by constantly harassing him in trying to find out what kind of a psychopathic condition he has. I know of one man who, by reason of refusal to give him an increase of 10 per cent to which he is entitled, is slowly going crazy.

*By the Chairman:*

Q. Have we got to wait until he goes crazy?—A. Yes. I have lived near him and I know him.

Mr. MUTCH: Has anybody examined the doctor?

General Ross: I am not suggesting that. Perhaps you might do that. The files indicate it. That is all I want to say. In considering the question of change of pension, the patient is entitled to a fair diagnosis, and we should endeavour to see if we cannot co-ordinate departmental activities in order to have uniformity. I do not know how it is to be done. That is a matter to be worked out in the department. I think it is a very serious matter, and one which, if it is not corrected, is going to continue to get us in constant trouble.

[General Alex. Ross.]

Sir EUGÈNE Fiset: I think that is the most serious part of the administration. We have the files of the medical men. I have examined files on the same subject, and they give different decisions.

General Ross: Yes.

Sir EUGÈNE Fiset: That is where co-ordination in the department should arise.

General Ross: Yes, sir. Now, may I proceed? I think I can finish very shortly. This is really the main feature of the proposed Act, and is found on page 8. This introduces an entirely new principle. This introduces a statutory bar which has not been a feature of Canadian pension legislation for many years. After careful consideration and investigation we feel that we are unable to advance convincing reasons against the imposition of a statutory bar in cases coming under section 12 A (a). That is a section which deals with a man who did not see service in an active theatre of war. It would bar all those whose disability is due to service in Canada or England. It would appear that, at this date, it is extremely difficult to establish entitlement in the case of disabilities due to Canadian and English service, and that much time is now lost in reviewing and re-reviewing such cases, which can never be established. We dislike, however, the sudden imposition of such restrictions, and suggest that some space of time should elapse before the bar becomes effective.

As to 12A (b) this affects the front line cases. Our experience shows that it is impossible ever to determine when a legitimate claim may arise in respect to this class of service, and we feel that no restriction should be imposed. The provision for application by leave is not satisfactory, as the personnel of the appeal division will be constantly changing, and we cannot be sure of uniform decisions. I think we might be prepared to consider this suggestion, but at the present time you will see we are more or less in a state of flux. Consideration has been given to the new set-up, but we would like an opportunity to try it out before we surrender what is considered to be our most extremely important right. I do not know that this is being abused by the men in the front line because I do not think they ever could abuse the privilege. Anyway, it is an extremely dangerous practice to establish although it is done by the British government.

The CHAIRMAN: The Canadian government did it.

General Ross: And took it away.

The CHAIRMAN: It was there until 1930, don't forget.

General Ross: No, 1928, was it not? It was taken out. It has been a constant source of dissatisfaction; but they have this leeway. I do not know whether the minister will accept the responsibility for this, but there is no ban, in the ordinary sense of the word, to what any person may still believe and many do believe. It is extremely difficult for a man who went into the line, or something of that description, to get a pension now. Even though this ban has been on for many many years, the British minister of pensions has personally on the advice of advisers, granted six or seven hundred pensions a year. That indicates, I think, the difficulty in being able to say that there is any finality in regard to the front line man. I now come to a case that was cited to me yesterday, and it was a very convincing case. The man is now blind in one eye. He is entitled to that eye. His other eye is perfectly normal, and experience shows, over a great many years, that the other may become affected, and its becoming affected is due to the original affection. He then becomes wholly blind. That involves a new application and a new entitlement. You will say, he will probably get help alright.

The CHAIRMAN: No.

General Ross: I am told it does entitle him to a new entitlement. That is an extreme case. Then, we have other cases. A man has gunshot wounds, and he has carried on without asking for a pension. After a while some of them break down. They then come under this law. You are only complicating the situation because there will still be the matter of the appeal. There will be practically no appeal. I think we would get along much better if it were left as it is; at any rate, until we see how the new set-up works out. As to the other cases, we have carefully considered the situation. We cannot find sufficient reason for saying it cannot be shown that it is almost impossible to say that any injury due to Canadian or English service has not developed to the point where a pension is already granted.

Mr. MACNEIL: In your experience, is it a fact that frequently cases creep up which indicate that the disability is attributable to injuries in service, and they have not presented claims

General Ross: Yes, I knew of such cases.

Mr. HAMILTON: Have you the proportion of cases whose disability is due to services in other than a theatre of war; that is, those who have applied for pensions?

General Ross: I cannot just say; but I have had estimates made of the number, and it looks to me from what I can get that several years ago there were about 30 per cent of Canada cases, and England. Now, it is down to 20 per cent, as near as we can ascertain. Twenty per cent of the cases now before the courts are cases which originated in Canada and England only.

Mr. MACNEIL: Has it been possible to estimate approximately the number of cases that may probably be considered?

General Ross: 600,000 less 97,000 on pensions. 601,000 I think is the total enlistment in the Canadian army.

Mr. Mutch: You have to discount the dead.

The CHAIRMAN: They left relatives.

General Ross: 87.4 per cent saw service in France. That indicates the percentage. The others cannot be very large.

The CHAIRMAN: That would be about right, 15 per cent now.

General Ross: No more pensionable claims on the basis of these figures.

The CHAIRMAN: You say something over 80 per cent saw service?

General Ross: 87.4 per cent saw service in some theatre of war, and are suffering from some disability occasioned in a theatre of war.

The CHAIRMAN: 87 per cent? The total number of pensioners is approximately 97,000.

General Ross: 77,000.

The CHAIRMAN: 97,000 I think, taking in the dependents; 77,000 disability. There are 18,000 dependent pensioners. There are 250,000 people who are covered by these 97,000 cheques; that is to say, wives, children, and so on. There are something like 250,000 people to whom moneys are allotted out of the \$41,000,000 odd paid out every year.

Sir EUGÈNE Fiset: I wonder if General Ross would be good enough to read section 26 of the Act. It covers section 5.

General Ross: Section 12, sir. I am dealing with it now.

Mr. MULOCK: Limitation of pension.

General Ross: 12A, page 8.

The CHAIRMAN: Does that close your representation?

General Ross: I can finish, I think in 20 minutes at the next sitting.

The CHAIRMAN: We shall adjourn until Monday morning.

The committee adjourned to meet at 11 o'clock a.m., Monday, April 6, 1936.



## APPENDIX "A"

THE ORIGIN AND DEVELOPMENT OF LEGISLATION PROVIDING PENSION FOR  
WIDOWS OF PENSIONERS IN CLASSES 1—5, IRRESPECTIVE OF  
SERVICE CAUSE OF DEATH

## 1919—Chap. 43, Section 33 (2)

Subject to paragraph one of this section, the widow of a pensioner who, previous to his death, was pensioned for disability in any of the Classes 1 to 5 mentioned in Schedule A shall be entitled to a pension as if he had died on service whether his death was attributable to his service or not, provided that the death occurs within five years after the date of retirement or discharge or the date of commencement of pension.

## 1925—Chap. 49, Section 9

Subsection two of section thirty-three of the said Act is repealed and the following is substituted therefor:—

(2) Subject to paragraph one of this section, the widow of a pensioner who, previous to his death, was pensioned for disability in any of the Classes 1 to 5 mentioned in Schedule A shall be entitled to a pension as if he had died on service whether his death was attributable to his service or not, provided that the death occurs with ten years after the date of retirement or discharge or the date of commencement of pension.

## 1928—Chap. 38, Section 25

Subsection two of section thirty-two of the said Act is repealed and the following is substituted therefor:—

(2) Subject to subsection one of this section, the widow of a pensioner who has died and who at the date of his death was in receipt of a pension in any of classes one to five mentioned in Schedule A of this Act, or who, except for the provisions of subsection one of section twenty-nine of this Act, would have been in receipt of a pension in one of the said classes, shall be entitled to a pension as if he had died on service whether his death was attributable to his service or not, provided that the death occurs within ten years after the date of retirement or discharge or the date of commencement of pension.

## 1930—Chap. 35, Section 11

Subsection two of section thirty-two of the said Act, as enacted by section twenty-five of chapter thirty-eight of the statutes of 1928, is repealed and the following substituted therefor:—

(2) Subject as in this Act otherwise provided, the widow of a member of the forces who had at the time of his death been, for not more than ten years, in receipt of a pension for a disability of or exceeding eighty per cent or would have been in receipt of such pension if he had not been in receipt of pay and allowances from the Department while under treatment shall, irrespective of the cause of the death of her husband, be entitled to a pension as if his death had resulted from an injury or disease or aggravation thereof attributable to or incurred during military service.

In 1933, the term "Hospital Allowances" was substituted for the term "Pay and Allowances." In addition, the following proviso was added "provided that she was married to him prior to the first day of January, 1930."

The provision as it stands to-day is as follows:—

Section 32 (2)

Subject as in this Act otherwise provided, the widow of a member of the forces who had at the time of his death been, for not more than ten years, in receipt of a pension for a disability of or exceeding eighty per cent or would have been in receipt of such pension if he had not been in receipt of hospital allowance from the Department while under treatment shall, irrespective of the cause of the death of her husband, be entitled to a pension as if his death had resulted from an injury or disease or aggravation thereof attributable to or incurred during military service, provided that she was married to him prior to the first day of January, 1930.

APPENDIX "B"

SUBMISSIONS AND OBSERVATIONS RE THE PROPOSED AMENDMENTS TO THE  
PENSION ACT, CHAPTER 157, R.S.C., AS AMENDED

(1) *General*

In this Memorandum it is proposed to discuss only matters of principle involved in the proposed Amendments. We desire, during the Recess, to analyze such Amendments in detail and submit observations as to phraseology with suggested amendments to cover questions of principle involved.

(2) *Pension Appeal Court and Re-organized Pension Commission, Section 3 (2)*

It is noted that it is proposed to merge the present Pension Appeal Court and the Commission. Speaking generally, so long as the right of appeal is preserved, we offer no objection in principle, our view being that it is the responsibility of Parliament to provide the machinery which will most efficiently and economically determine questions arising under the Pension Act and if, in the opinion of those responsible (acting upon the advice of their Advisers), they can give better service, more economically, by a readjustment of the machinery, it is not for us to object; reserving the right, however, to make representations in the event of it being found that the machinery established does not function satisfactorily.

In making this submission, however, we desire to direct attention to two portions of our original Brief, namely, Pensions (b) (1) Pensions Administration (Page 3) and Pensions (b) (5) Appeals (Page 5).

(3) *Pension Commission Staff* (See subsection 10 of Section 3, subsection 15 of Section 3 and Section 4)

If in the interests of economy and efficiency any rearrangement of the staff of the Commission is necessary, we feel that it is not for us to offer any objection, but in the interests of the pensioner and for the purpose of enabling the Commission to function satisfactorily, we desire to suggest that the principle that there shall be no outside interference with the staff allotted to the Commission, should be preserved. We do not assume to know how this can best be accomplished, and we are not prepared to suggest any specific amendment, but we urge that the principle should be plainly stated and that the staff assigned to the Commission shall not be controlled or interfered with except by the Minister, on the recommendation of the Chairman, or upon the initiative of the Minister, after consultation with the Chairman. In other words, that the Chairman shall have exclusive control of the staff assigned to the Commission, while discharging such duties, but that the Minister shall have authority to make such transfers, or other changes, as may be necessary for Departmental efficiency.

(4) *Jurisdiction of the Commission* (Section 5)

Section 5 as re-enacted is satisfactory, but we desire to draw attention to difficulties which have arisen by reason of change of diagnosis and change of basis of entitlement, as set out in our original Brief. (Pensions (b) Pension Administration (3) (Page 4) ).

(5) *When Disability Pension not to be Awarded*—Section 12 (a)

This introduces a statutory bar which has not been a feature of Canadian Pension Legislation for many years. After careful consideration and investigation, we feel that we are unable to advance convincing reasons against the imposition of a statutory bar in cases coming under Section 12A (a). It would appear that, at this date, it is extremely difficult to establish entitlement in the case of disabilities due to Canadian and English service, and that much time is now lost in reviewing and re-reviewing such cases, which can never be established. We dislike, however, the sudden imposition of such restrictions, and suggest that some space of time should elapse before the bar becomes effective.

As to 12A (b), this affects the front line cases. Our experience shows that it is impossible to ever determine when a legitimate claim may arise in respect to this class of service and we feel that no restriction should be imposed. The provision for application by leave is not satisfactory, as the personnel of the Appeal Division will be constantly changing, and we cannot be assured of uniform decisions.

(6) *Relief Recoveries*

This is satisfactory, but it should be pointed out that if there is a restriction of retroactivity as provided for by Section 27, recovery should only extend over the period which retroactive pension is paid.

(7) *Increase of Disability When Final Award Accepted*—Section 15

It is assumed that this is now considered unnecessary in view of the provisions of Subsection 9, but if it is intended to deny the right to secure increased assessment we must respectfully protest any such encroachment upon existing rights.

(8) *Restoration of Pension*—Section 16 (Subsection 9 of Section 25)

In view of the fact that several thousands have already received the full benefits accorded by Subsection 9 of Section 25 of 1930, it is not understood why the few remaining who have not applied should now be penalized.

(9) *Retroactivity*—Section 17 (27)

The Canadian Legion is fully aware of all the difficulties attending the award of retroactive pensions under existing conditions and of the fact that large awards tend to swell the annual pension bill with consequent difficulty in securing extension of benefits in other deserving cases. As an organization, therefore, we are prepared to give approval of the principle of restriction, but would point out that, as an organization, we are probably not entitled to give full consent or sign away individual rights. There is a principle of contract involved. For instance, suppose a man died ten years ago and his widow claimed that his death was due to war service. Assume that she could not then secure the necessary evidence to establish her claim, but later secured such evidence and consequent entitlement. In the meantime she would probably have suffered extreme hardship. We would hardly feel justified in saying that she should be denied any rights other than as set out in the proposed amendment. It is suggested, however, that as a reasonable compromise the period for which retroactive pension may be awarded should be increased or else discretion given to the commission to make retroactive awards in cases when it is shown that hardship or injustice would otherwise result.



(10) *Pensions to Widows*—Section 19 (32a)—Section 20 (37e)

It is not understood why the previous provision of pension from date of application is changed from date of award. Presuming the case went to the Commission, the Quorum, and the Appeal Division, eighteen months might easily elapse, but if it is desired to avoid payment for lengthy periods of retro-active pension application might be defined, or in any event a reasonable period which might cover the extended period of presentation might be provided.

(11) *Refusal*—Section 21 (52)

We submit that this will very seriously interfere with the adjustment of pension cases. Difficulty is always experienced by Quorums and Appeal Divisions in keeping abreast of their work. This will accentuate the situation. At present the Veterans' Bureau and Adjustment Officers of recognized Veterans' Organizations can discuss cases from time to time with the Commission and ultimately obtain adjustment or else reach the conclusion that success is impossible. This section would give only one chance, thereby greatly reducing the man's prospect of success and greatly increasing the burden upon the machinery of adjudication.

(12) *Witness Fees*—Section 23 (56)

In the great majority of cases the responsibility of calling witnesses rests upon an Officer of the Crown. The effect of this would virtually be to make it impossible for him to call witnesses except with the possibility that he would be required to pay their expenses himself.

(13) *Further Evidence*—Section 26 (68)

It is suggested that the principle of affidavit evidence in the Appeal Division is unsound.

(14) *Access to Records*—Section 72

We agree that the man should not have access to the documents, but desire that the right of recognized veteran organizations, medical officers and properly qualified solicitors should be recognized upon satisfactory assurances of confidence being given.

All of which is respectfully submitted.

ALEX ROSS,  
*Dominion President.*

## APPENDIX "C"

MEMORANDUM FOR SUBMISSION TO THE SELECT PARLIAMENTARY COMMITTEE OF  
THE HOUSE OF COMMONS ESTABLISHED FOR THE CONSIDERATION OF PROBLEMS  
AFFECTING THE RETURNED SOLDIERS OF CANADA

The Canadian Legion of the British Empire Service League welcomes this opportunity of discussing with the Members of Parliament the problems affecting the veteran body which they represent. It is now six years since there has been a full Parliamentary investigation into this question, although in 1933 a Committee was set up for the purpose of considering the recommendations of a Special Committee appointed to investigate the operation of the administrative machinery of the Pension Act, and a further Special Committee was set up in 1935 to investigate the problems of unemployment as affecting ex-service men as a class.

The matters in respect to which we invite consideration by this Committee fall under four headings, namely:

- (1) Pensions,
- (2) Unemployment,
- (3) War Veterans' Allowance,
- (4) Medical Treatment.

Actually, the last three are to some extent related because submissions made for the extension of War Veterans' Allowance benefits are intended to relieve the burden of unemployment, and the question of medical treatment is one which is always of great concern to those who are unemployed. On this basis, therefore, we submit definite suggestions as follows:—

(1) PENSIONS: (a) *Amendments to the Act.*

We are happy to say that, at this time, we do not find it necessary to urge any Amendments of an extensive character in connection with the Pension Act. We believe that the Act, in principle, is adequate to meet the situation, if properly administered in the spirit in which it was passed but, naturally, in the course of experience minor amendments are suggested to meet special classes of cases, and to remove apparent inequalities or injustices. The following Amendments appear to us to be desirable or necessary:—

- (1) An amendment to Section 2 (h)—definition of "Improper Conduct"—so as to clearly exclude from the definition cases of non-intentional self-inflicted injuries.

NOTE.—See judgment of Pension Appeal Court in the case of No. 192004 T. A. Armstrong. The effect of this judgment (Mr. Justice Hyndman dissenting) is that unintentional self-inflicted injuries come within the definition of "Improper conduct" referred to above. The Pension Commission has construed self-inflicted wounding as improper conduct only those cases where such wounding was intentional and with the object of avoiding military duty. The Court's Judgment, therefore, is at variance with the established practice of the Commission, and it is considered that an Amendment to the Act should be made in order to legalize the position of the Commission.

- (2) An Amendment to Section 19 (Cap. 45, 1933) to provide for continuation of allowances for housekeepers or wives, in cases where entitlement to such allowances originated prior to May 1, 1933.

NOTE.—See Appeal Court decision 25-6-34 on Reference by Crown.

In 1933 Parliament enacted legislation, the intention of which was to provide that in the case of wives married, or children born, or housekeepers employed, from and after May 1, 1933, no additional pension allowances could be paid. Upon the enactment being referred to the Pension Appeal Court for interpretation, it was held that the allowances could not be paid even in cases where entitlement for such allowances had been established prior to May 1, 1933. Thus, for example, under this decision if a housekeeper had been employed prior to May 1, 1933, but after that date had died or had been discharged, or left, and the appointment of a new housekeeper became necessary, allowances could not be awarded to such new housekeeper. This is considered to be quite beyond the intent of the enactment, which was designed to apply solely to cases having their origin on or after May 1, 1933.

- (3) An Amendment to Section 32, subsection 2, to provide for deletion of the ten year limitation governing entitlement of widows in cases of death of pensioners in receipt of pension in Classes One to Five, that is 80 per cent to 100 per cent.

NOTE:—This recommendation has, we believe, been put forward by the Amputations' Association, and it is endorsed by The Canadian Legion. When this Section was first introduced into the Act the time limit was placed at five years, presumably for the reason that it was assumed that if a man, disabled by war service to the extent of 80 per cent died within five years, it might reasonably be assumed that his death was due to war service. Subsequently, the time limit was extended to ten years and the principle, therefore, was to some extent modified.

If the State has agreed to accept this responsibility for a period of ten years, it is considered that it should be extended indefinitely, because the duty of providing for dependents of severely disabled men does not diminish but rather increase with the passage of time. The application can be justified upon the ground that in very few cases can a man so severely disabled adequately provide for his family after death.

- (4) The question has arisen as to the right to pension of widows of pensioners whose pensions were awarded under Section 12 (c) of the Pension Act, in cases where the degree of aggravation of the pre-enlistment disability is fifty per cent or more. Our understanding is that, since the inception of the legislation, the widows of pensioners dying in these circumstances became entitled to pension. A few years ago, we understand that the Pension Commission submitted the practice to the Department of Justice for an opinion, with the result that the practice was confirmed. Some time later Section 12 came before the Pension Appeal Court and as a result an interpretation was laid down which, amongst other things, definitely precluded pension to widows in these circumstances. In consequence of this, the Pension Commission proceeded to cancel a number of awards which had been paid.

The matter was then brought, by The Canadian Legion, to the attention of the Dominion Government, it being contended that as the apparent intention had always been to pension cases of this nature, remedial action to restore these pensions should be taken. These representations were favourably received. Legislation was not introduced but Section 21 of the Pension Act (known as the Meritorious Clause) was utilized to reinstate all the discontinued cases.

It now appears that further claims of widows whose husbands have since died, in the same circumstances, have been made. The Pension Commission considers that it is still bound by the Judgment of the Pension Appeal Court, referred to above, and therefore, cannot award widows' pension in these cases, as of right. The Commission also feels that, whilst it is true that the discontinued cases were reinstated under Section 21, this fact, nevertheless, cannot be considered as a precedent upon which to base an award in all cases of the same nature. The Commission also entertains a doubt as to whether, in view of the wording of the Appeal Court Judgment, Section 21 can be utilized for this purpose under any circumstances whatsoever.

It is clear that claims of this nature now coming forward are, from an equitable point of view, entitled to the same treatment as those in respect to which pension is now being paid (but it would appear doubtful, in view of the foregoing, if this can be done without further legislation) and necessary legislation is requested.



## (b) PENSION ADMINISTRATION:

(1) *The Canadian Pension Commission*

As previously indicated, we believe that the matter of major importance in regard to pensions to-day is that of administration. This view was clearly expressed by the veteran minority of the Special Joint Committee, set up in 1932 and which reported in 1933. (A copy of this Report is presented herewith). The Government of the day, on the recommendation of a Parliamentary Committee, accepted in principle the recommendations of the Chairman of that Committee, concurred in by certain of the Departmental Members, and the Pension Act was amended accordingly. In the result great dissatisfaction followed, and after many conferences, the Government, in 1934, agreed to effect a change in the personnel of the adjudicating body, the Canadian Pension Commission, and as a temporary measure, and for the purpose of securing an independent report on the question, provided for the appointment of a Judge of a Superior Court as Chairman of the Commission. The appointment was originally for one year, and last year it was extended for a period of another year, but the arrangement is still temporary and it is for the consideration of the Committee as to what provision shall be made for a permanent Chairman.

In this connection it should be pointed out that the present arrangement has worked extremely satisfactorily and has resulted in a marked improvement in the general situation. At the same time we must make it clear that there are many matters (as we will endeavour to show) which are not entirely satisfactory. In our opinion, however, the fundamental requisite to the successful administration of this Act is the appointment of a Chairman possessing the qualifications of the present Acting Chairman.

Attention is directed to the remarks of the Rt. Hon. the Prime Minister on the occasion of a discussion in the House of Commons, when the following reference to the functions of the Acting Chairman was made:—

I have already indicated that I propose to ask the Chairman to keep a close record, almost in the nature of a diary, from the time he takes over, indicating any difficulties in the law as he administers it, so that we may be able to understand what the difficulties are.

From this it will be apparent that The Hon. Mr. Justice Taylor was not only appointed as Acting Chairman of the Commission but he was also in reality, as a Member of the Judiciary, appointed as a Special Commissioner to investigate and report on the whole question of administration. The Canadian Legion does not know whether Mr. Justice Taylor has, in fact, been required to make any report as suggested, but we would suggest to the Committee that, having regard to the terms of his appointment, his advice as to the operation of the Act should be obtained with a view to endeavouring to perfect the Administration.

(2) *Delays in Adjudication*

Complaints will undoubtedly be presented to the Committee in regard to the delays which occur in the hearing of claims. In this connection we absolve the Chairman of the Commission from any direct responsibility, and we believe that the primary cause of this condition is due to the fact that the independent Chairman of the Special Joint Committee which reported in 1933, with the concurrence of the then Chairman of the Board of Pension Commissioners, recommended a reduction in personnel. It should be pointed out that, at that time, the Veteran Representatives on the Committee unanimously agreed that the personnel recommended would be sufficient to adequately discharge the duties required of them. Nevertheless, the select Parliamentary Committee accepted the recommendation and the Commission was constituted as recommended, with

the result that in a very short time it was found that work was again hopelessly in arrears and the Government was compelled, of its own initiative, to appoint four additional Members, bringing the personnel up to that recommended by the Veteran Representatives.

It has, we believe, been impossible, even with the increased personnel, to overtake the arrears accumulated in the interim. The Canadian Legion does not desire to make any recommendation in this regard other than that the situation should be investigated with a view to any improvements which may be suggested as a result of such investigation.

### *(3) Review of Entitlements Granted and Revision of Assessment*

We believe that much of the dissatisfaction which exists is due to the constant revision of certain classes of cases, and the withdrawal of pension benefits by a change of diagnosis, or in some cases, even nullifying the effect of the findings of the adjudicating body.

We do not desire to examine the whole field of review and assessment but think that the attention of the Committee should be directed to one particular Branch, namely, that affecting mental and nervous cases. These classes of pensioners, in our opinion, should be treated with even greater consideration and sympathy than other classes, because in view of their mental condition or nervous state, they are particularly susceptible to any drastic changes in their status and such changes have, in some cases, produced very unfortunate results. As illustrating what we have in mind we desire to draw your attention to a number of specific cases, setting out the conditions which we would like to have investigated.

### *(4) Correction of Mistakes*

In connection with administration generally, we believe that much dissatisfaction arises from the correction of so-called mistakes. The Canadian Legion has no desire whatever to encourage the indiscriminate granting of pensions, nor do we offer any assistance for the protection of those who, by fraud, or by methods bordering on fraud, seek to invoke the benefits of the Act. Nevertheless, we do suggest that, when the Commission, which is to all intents and purposes a Court, has, with all the facts before it, ruled in favour of entitlement, that ruling should stand, even although on review, perhaps by different personnel, it might appear that the original body misconceived the effect of the evidence or applied the wrong principles in the construction of the Act. It is our contention that decisions once rendered should be, to all intents and purposes, regarded as the judgment of a Court, and that the same principle should apply.

We believe that it has always been accepted as a principle by the British Ministry of Pensions that mistakes other than those adduced by fraud, misrepresentation or concealment, should not be corrected and it has been stated that this has tended to a smother operation of the law. We ask that consideration be given to the adoption of some such principle in the administration of our Act, as cancellation of benefits existing over a long period of years must inevitably result in dissatisfaction, and impair the confidence of pensioners in the adjudicating bodies which have been charged with the disposal of their claims.

### *(5) Appeals*

Undoubtedly the attention of the Committee will be directed to the operation of the Pension Appeal Court. The Canadian Legion regards the right of appeal to a separate body as a very valuable one and one not to be lightly disregarded, in fact, the principle of the right of appeal has been so long established in our system that we do not think it should be abolished. We know, however, that there is much dissatisfaction with some of the decisions which have been rendered

by the Appeal Court. We ourselves make no specific representations, recognizing that this body is to all intents and purposes a Court, with all the rights of a Court and entitled to the respect of a Court, and we would not like to associate ourselves with criticism which would be considered improper in regard to any of the other Courts of the land. In view, however, of the existence of what we may describe as dissatisfaction in regard to this body we suggest that the Committee should make some enquiry with a view to determining whether there is any justification for the criticism and if so, whether any steps could be taken to remove any cause of criticism.

## (2) UNEMPLOYMENT:

The most pressing problem affecting the veteran body to-day is that which is also the most prominent in Canada, namely, that of Unemployment. We would point out, however, that existing conditions bear much more hardly upon the unemployed veteran than upon the rest of the community. In addition to the difficulty, general throughout the Country, of finding suitable employment, the unemployed veterans, and particularly those who saw service in the line, suffer, in a very large number of cases, from disability directly due to service, or from the general effects of service, a condition recognized as existing when the War Veterans' Allowance Act was passed. And in addition to the above, there is also the fact that these men are now rapidly approaching the age when their economic usefulness is seriously impaired, and in many cases they also suffer from lack of training and a loss of opportunity in youth. All these disabilities being directly due to war service, in our opinion, we feel that this class is a direct responsibility of the Dominion and that consideration should be given to their particular problem, in addition to the consideration which is given to the general problem throughout the Country. Having this in mind, The Canadian Legion has, during the past two years, been concentrating on procuring information and arousing interest in this problem.

Last year we made a number of representations to the Government of the day and as a result a Special Committee, now known as the Hyndman Committee, was set up to investigate our submissions. It might be useful for the Committee to know the circumstances under which the Hyndman Committee was set up.

The Right Hon. the Prime Minister, after hearing our representations, and after consultation with his colleagues, suggested that the matter might be approached in three different ways:—

- (a) By a Parliamentary Committee,
- (b) By a Royal Commission,
- (c) By a Special Committee.

After careful consideration, and consultation with our officers and with the Government of the day, it was decided to adopt the latter method, for the reason that proper consideration of the problem involved careful examination, not only into the statistics which might be available and the general evidence which might be given, but also into what might be described as the "human element." In other words, to arrive at a proper appreciation of the situation, it was necessary that the men affected should be individually examined and a personal enquiry made into the conditions under which they lived. It was recognized that a Parliamentary Committee, the Members of which have other duties to perform, could not readily carry out this enquiry and it was felt that a Royal Commission would perhaps be too formal a method of enquiry, but that a Special Committee, sitting more or less informally, might be able to arrive at the results required. In the result we believe that this decision was justified, because the Committee, in addition to hearing evidence in the ordinary



way, made a close personal enquiry in individual cases, in hospitals and in distressed areas, with the result that it had the human background of the problem available when writing its report. The Committee, we may say, should be regarded as an absolutely impartial one and, we think, approached the problem without any preconceived ideas as to the nature of the problem, and arrived at its conclusions on the evidence presented, and upon the conditions which it found, not only as a result of personal interview of the men, but also after making close enquiry into the requirements of industry.

In the result you have before you the Hyndman Report. It is not our intention to reiterate the arguments which we presented to the Hyndman Committee, but we present to you herewith our original Brief, which we are prepared to explain or elaborate as the Committee may desire.

We contend, however, that the Hyndman Report, made under the circumstances outlined, completely justifies all our contentions.

In approaching the consideration of this Report we are not concerned with the detailed recommendations, except that we would like to see many of them implemented, but the two major principles which we wish to urge upon the Committee are:—

- (1) That these men, particularly those who served in the front line are, by reason of their service, entitled to special consideration by the Government of Canada, and
- (2) That this not only involves ensuring provision for their adequate maintenance, but with maintenance there should be coupled an opportunity for profitable work.

In other words, we strongly discount measures which tend to pauperize any class of the community and we feel that the great desire of the majority of the veterans is that they should be utilized in profitable employment, to the extent of their strength. Canada is, however, a country which presents very limited opportunities for sheltered employment, and the great majority of these men are capable only of such employment. It is with this in view that we have suggested the establishment of a voluntary commission, the purpose of which would be to co-ordinate the efforts of veteran and civilian organizations, in co-operation with the Government, in developing every possible field for employment for disabled and handicapped men. We recognize quite well that the Government alone cannot possibly deal with this problem, but we do believe that, by co-ordinated effort, as suggested, a great improvement can be effected.

The proposal by the present Government to set up such a Commission in regard to the general problem of unemployment, indicates that our proposition is in accord with their general policy. We believe, however, that the General Commission cannot deal adequately with our problem, which is separate and distinct from that of the country as a whole. We do think, however, that a Commission, charged specially with consideration of the veteran problem, might operate as a separate section of the General Commission.

The Canadian Legion cannot urge too strongly that this problem is one of paramount importance. The veterans of Canada are entitled to special consideration in these difficult times and constructive policies are necessary to give them that to which they are entitled. It is not our desire to add to the burdens of the State, but, after all, it is recognized that the State has some responsibility for its unemployed, and that being the case, it is our desire that these benefits should be expended to the best advantage, coupled with provision for the maintenance of the self-respect of a class who have made a great contribution to the country in time of war and, we submit, an even greater contribution in time of peace, by the example of stability which they have set to their fellow countrymen in these very difficult times.

## (3) WAR VETERANS' ALLOWANCE

The Canadian Legion is glad to be able to come before this Committee and state our appreciation of the manner in which this legislation has been administered, and the wonderful benefits which it has afforded to recipients entitled to benefits under this Act. It is a rather extraordinary thing that, while the benefits under this Act are, in most cases, less than those given under temporary relief, nevertheless the recipients, having received this honourable recognition of their services, seem to be able to make their way and it is very rarely that we hear any complaints from them.

It is also extraordinary how, generally speaking, the Act as originally drafted has operated satisfactorily, and without Amendment, over a period of five years. One would have expected that, in a new piece of legislation, many defects would have appeared. Actually, this is not the case, but in the course of experience a number of minor Amendments are suggested.

## (a) Section 2:

Provision for changing the name of the Committee to "The War Veterans' Allowance Commission" so as to make clear its proper legal status and functions.

## (b) Section 4:

An Amendment to reduce the residence in Canada qualification contained in this section, from "one year" to "three months."

## (c) Section 6:

An Amendment vesting in the Committee discretion to award allowances on the basis of a married man to a widower with children, although not residing with such children, providing that justifiable reasons for not so residing with the children are shown.

## (d) Section 7:

An Amendment to provide that Helplessness Allowance, awarded under the Pensions Act, shall be excluded as income, for the purposes of the War Veterans Allowance Act.

## (e) Section 9:

An Amendment vesting in the Committee discretion to award allowances to widows in such cases where it appears that an award to an applicant would have been approved, had he not meanwhile died.

## (f) Section 13:

An Amendment vesting in the Committee discretion to award partial allowance to dependents, in cases where the recipient is admitted (without pay and allowances) to a Departmental institution.

## (g) Section 17:

An Amendment to provide that recovery of overpayment of allowances shall be in the discretion of the Committee, as is the practice under the Pension Act.

(h) Provision for access by the Committee to Census Returns, as in the administration of Old Age Pensions.

*War Veterans' Allowance and Unemployment*

Reference has been made to the fact that these subjects are, to some extent, related and in this connection the attention of the Committee is invited to two suggestions which have been seriously pressed, with a view to alleviating the situation of the unemployed and extending the benefits of the Act. These are:—

- (a) Extension of the definition of "Permanently unemployable." At present the definition of "permanently unemployable" means unemployable from a medical standpoint. Under normal circumstances this might have been sufficient, but under the conditions to-day it is not sufficient. A man, who is employable in the medical sense is, in many cases, only employable in certain very limited classes of work. It is our submission that if, as generally happens, this particular class of work is not immediately available, the man should, for the purpose of the allowance, be considered unemployable until work of the necessary description can be made available.

We believe that the extension of the principle of the Act to include this class would go a long way towards helping to promote any scheme which can be evolved to provide sheltered employment for those capable of such employment. The benefits extended would not, necessarily, be permanent because if the National Commission succeeds in co-ordinating local effort, there would be sympathetic effort made to find the class of employment of which these men are capable and when this employment was made available, they would then cease to draw the allowance. It is suggested as a temporary measure, to provide that adequate maintenance which we believe to be fundamental, coupled with the duty to provide employment within the man's capacity.

- (b) Reduction of the age limit. It may be stated that there is a very strong feeling in all branches of the veteran body that a reduction of the age limit is necessary, to solve the unemployment problem. The Committee will be invited to consider this phase of the case and we are prepared to produce witnesses, as required, to urge the merits of this particular recommendation.

#### (4) MEDICAL TREATMENT:

As previously indicated, this also is bound up with the problem of unemployment. Provision for medical treatment varies very greatly in different areas, and it is a constant source of complaint amongst unemployed ex-service men that they cannot secure adequate treatment for themselves and their families. Many suggestions have been made, some of which are beyond the bounds of possibility, but in view of the feeling of dissatisfaction which does exist, we suggest that the Committee give consideration to the problem.

At present the principle recognized is that medical treatment is available for all disabilities arising from war service and recognized as such by an award of pension. We believe that the operation of this Regulation might properly be investigated.

In addition, the Government of Canada has for years extended free medical treatment to pensions who are in indigent circumstances. The benefits of this, however, are restricted to those who are able, with their own resources, to make themselves available at established Departmental institutions. It is suggested that the Committee might consider whether these provisions are adequate.

All of which is respectfully submitted.

ALEX. ROSS,

*Dominion President.*

OTTAWA, Ontario, March, 1936.



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HOUSE OF COMMONS

SESSION 1936

SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 3

MONDAY, APRIL 6, 1936

## WITNESSES:

- General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League.
- Mr. Alexander Walker, Dominion Executive Representative of the Canadian Legion of Alberta.
- Mr. T. A. Bernard, representing the British Columbia Command of the Canadian Legion.



## MINUTES OF PROCEEDINGS

MONDAY, April 6, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 o'clock, a.m., Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Beaubier, Betts, Brooks, Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Isnor, Lennard, Macdonald (*Brantford City*), MacNeil, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Streight, and Tucker—19.

General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League, was recalled, examined and retired.

Mr. Alexander Walker, Dominion Executive Representative of the Canadian Legion of Alberta, was called, examined and retired.

Mr. A. T. Bernard, representing the British Columbia Command of the Canadian Legion of the British Empire Service League, was called, examined and retired.

On motion of Mr. MacNeil it was ordered that the statement submitted by General Ross showing "the extent to which recommendations of the Hyndman Committee regarding unemployment assistance are being implemented as of November 1, 1935," be printed as Appendix "A" to this day's evidence.

The Committee adjourned at 1 o'clock, p.m., until 11 o'clock, a.m., tomorrow.

J. P. DOYLE,

*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 429,

OTTAWA, April 6, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman, presiding.

The CHAIRMAN: Order, please, gentlemen. General Ross, you were giving evidence when we adjourned, will you please continue.

General Ross, recalled.

General Ross: Mr. Chairman and gentlemen, I had hoped to have completed within certain bounds our case on Friday last, but, unfortunately, I had a little left over. Now, there are some witnesses here today from the far west who are anxious to be heard before the committee rises for Easter. Would it be permissible for us now to go on with unemployment and war veterans' allowances?

The CHAIRMAN: Quite.

General Ross: As I emphasized at the outset of the hearing, the veteran bodies consider the question of unemployment as it affects the veteran as probably the most serious problem which presents itself to him today. In my brief on page 7 I have outlined what has been done by us with a view to bringing this matter to the attention of parliament. Two years ago we carried out a comprehensive survey of the unemployed ex-service men in this country which indicated that a very large number of them were so seriously incapacitated by age, war disability or disabilities not actually attributable to war service that it would be very doubtful whether they could ever be absorbed in industry even under normal conditions. In that connection we approached the late government and discussed the matter. At the time we approached the Right Hon. the Prime Minister, the legislation to deal with unemployment insurance had just been brought down, and I pointed out that in view of the situation disclosed by our figures it was very unlikely that this measure, when it became effective, would ever benefit the majority of those men. He agreed with that viewpoint, and as a result we discussed what should be done. It was felt that the first thing to be done was to verify the picture as presented by our survey and to ascertain exactly the conditions existing; and it was felt, as I have indicated, that possibly that might be better accomplished by setting up a special committee which would be able to move around more freely than a parliamentary committee could do. It was simply a matter of hearing verbal evidence; it was a matter of studying the conditions as they exist; and the Hyndman commission was set up and heard a great deal of evidence. It visited one or more hospitals and visited many of the distressed areas where these unemployed veterans reside. In the result they submitted a report which has been circulated to you which indicated that, in fact, the conditions as outlined in our survey did exist in a very marked degree, and that the conditions presented probably a perpetual problem unless some remedial measures could be taken. The commission made extensive findings in this respect, as you will find in the report; and as I indicated at the outset I would be glad if, in conjunction with it, you would read the memorandum which was submitted to the committee which gives the basis upon which we ask for some remedial action.

Now, I do not desire to open that case and argue it from the outset because this commission, which was appointed for the purpose of studying these problems, verified it by actual visitation to the men affected and found that what we have said was true.

The commission, of course, were in a position only to make recommendations for the amelioration of the situation; and the circumstances as I see them today are that their findings are now before you with a view to enabling you to determine to what extent the parliament of Canada can do something to assist in this matter. Later I will give an outline of some of our views in regard to the problem as we see it; but at the outset, as I said, we have witnesses from out of town who have come here especially because they feel the urgency of this problem, and I suggest that they should be heard first. After they have been heard I will endeavour to summarize our position without going over the ground too many times. Baldly stated our view is this, that we want pensions in respect of actual war disabilities, but in recent years there has developed in this country a situation which we must frankly admit is not a local condition but rather a world-wide condition, and that as a result of that condition unemployment has been extremely rife. We feel that our evidence will show to you that the burden of that condition has fallen more heavily upon this class of man who served in the line than upon others. For the reasons that have been stated they may be summarized as tangible and intangible disabilities because, after all, we feel that the unemployed disability which is assessed only 10 per cent by the Pension commission and perhaps, properly assessed, is a very real handicap to the man of forty-seven years of age who is trying to get employment. And then we have the intangible disabilities which are becoming manifested under the War Veterans' Allowance Act. Then we have the handicap due to loss of opportunity which these men suffered in the formative years of their life and, in very many cases, the lack of training—training which was denied them in their early years. All these factors generally complicate the situation and make it more difficult for these men.

Now, we realize that it is a very difficult matter to say what can be done. We strongly deprecate any approach to what we call service pensions as such, but we do believe that there is a responsibility of some sort devolving upon the country which asked these men to enlist to see to it that they do not become, as they threaten to become, a perpetual drain upon relief.

We have nearly 10,000 pensioners who are in receipt of pensioners' relief, and then we have probably 35,000 more who are not covered by any form of relief. Now that is a very serious situation. There are many of those pensioners on relief who have done nothing now for five or more years; in fact, one of your administrators said to me on one occasion that there were men on his relief rolls whose children had never seen their father go to work. Now, that is a serious matter when you consider its effect upon the generation which is growing up. It is not, of course, an impossible situation to provide that all those people shall be fed—they are being fed to some degree, although the Hyndman commission found that in many cases they are very seriously undernourished—but, after all, that is only an expedient, and the situation as we see it is that, unless there is some definite action taken, these men are going to become permanent public charges with a very unfortunate reaction upon their children; and I feel that before it is too late and whilst there is some usefulness left in them that we should endeavour to evolve some scheme whereby they can be assisted in getting work. Canada is a hard country and sheltered employment is very scarce; the opportunities of absorbing disabled men are very remote; and it is only by the mobilization of various agencies in Canada that we are able to give these men some hope for the future. Our view is that it is highly undesirable that such a deserving class should be doomed to perpetual pauperism,

[General Alex. Ross.]



and that we must exhaust every effort to see that we do something to give them some hope of earning a respectable living. To say how this is to be done is not easy; but we have at last reached the place where we can give consideration as to ways and means of solving the problem; and if you gentlemen, in the light of what you have seen and know, are able to find some means whereby some material help can be given without at the same time imposing too great a burden upon the country, you will have done your part. We are not asking to unduly increase the burden upon the country; all we are asking to have done is to have the expenditure of money at present being expended handled more scientifically so that the burden will not become intolerable, because without an effort to do this it is quite obvious that within a few years the relief burden must become very heavy in respect of this one deserving class. Now, when approaching the problem there is a very strong feeling in all organizations that possibly existing agencies might be utilized to some extent, particularly the war veterans' allowance. Our late convention and former conventions have stressed before you very clearly that they believe that by some reduction in the present standard of the War Veterans' Allowance Act a large number of these men who are, for all practical purposes, unemployable might be removed from the labour market and make way for others and, perhaps, for the younger generation who have a right to be considered. The final view of our organization will be presented to you by men who have made a study of this matter. There is also another view which ties into that, that even if that is done there are still possibilities of utilizing this measure for caring for men who have not reached any age to which the limit could be properly reduced who might still be covered by the act, and cease to be objects of charity. Let me make it clear that these men are, generally speaking, supported at a much less cost to relief by the War Veterans' Allowances—that the maximum allowances under the act are much less than the standard rate of relief in most of our cities; and, therefore, these men should receive what we consider an honourable allowance so as in some measure to care for themselves. Therefore, the utilization of this machinery is of great advantage in that in actual fact it does not cast any more, but it has the effect of removing the stigma of pauperism which is, after all, the greatest curse of relief measures. We have, however, cases in which a man is not permanently incapacitated from a medical standpoint, in that any doctor can say that there is nothing he can do; but in view of the very limited range of sheltered employment he is, to all intents and purposes, unemployable. We will direct you to that angle of the case. You have had a preliminary outline of what is in our minds; and I am going to ask Mr. Alexander Walker of Calgary, who is Dominion Representative of the Alberta Command of the Canadian Legion and also president of the Calgary branch of the Canadian Legion, which is the largest organized single unit of ex-servicemen in Canada, to address you. He has made a study for years of this problem, and he will outline his views of the way in which the war veterans' allowances might be utilized to take care of matters of this kind.

Mr. MACNEIL: Would it be possible to have placed upon the record the extent to which the recommendations of the Hyndman Commission have been implemented?

General Ross: We have a statement which we have compared with the department's who agree that it is correct.

Mr. MACNEIL: Could it be placed upon the record?

The CHAIRMAN: I have a statement somewhere. I suppose it coincides with yours.

(Statement showing extent to which recommendations of the Hyndman Committee regarding unemployment assistance are being implemented as on November 1, 1935, appears as appendix A to this report.)

Mr. ALEXANDER WALKER, Dominion Executive Representative of the Canadian Legion for Alberta, called.

WITNESS: Mr. Chairman and gentlemen, I will confine my remarks to the War Veterans' Allowance Act and unemployment. I must say that I am very pleased to see so many ex-soldiers on this committee, and the troops are looking forward to this committee more than they have ever done before. I have nothing but praise for this act, and with amendments the living conditions of a large number of our ex-soldiers would be improved. I feel that in the administration of this act two principles should be recognized:—

(1) The home is the most valuable social asset of the nation and security for the home by adequate allowance;

(2) Assurance against poverty. The need is assured financial income to establish the home with an opportunity for the family to provide for the future.

Too often we hear these three words: food, clothing and shelter. We have heard all about them; but surely there is something a little better than those three things coming to the ex-soldier.

A reasonable margin of earnings in excess of allowance should be allowed so that something could be set aside against the future needs in the period when casual earnings would be impossible. This act could be made into a real back-to-the-land scheme. I do not mean quarter or half sections of land but, say, quarter, half or an acre where men could have an opportunity to keep themselves.

The regulations regarding homes in urban centres is that 5 per cent of the assessed value over \$2,000 is regarded as income. If this principle was applied to rural districts, thrift would be encouraged. The present system has destroyed initiative. A man goes out and earns money and then suffers the penalty of having his allowance reduced and finds that his feeling of present security has been destroyed. Pensions are to be made permanent as a policy, and the same should be done under The War Veterans' Allowance Act.

The recipients of the war veterans' allowance fear that by increasing their earning powers such as buying a cow or more chickens, grain or vegetables, an inspector will report that as they have endeavoured to help themselves a reduction in the allowance should be made. This is the principle I am suggesting: why not value the holdings in the rural districts as you do in the urban districts? Allow a recipient \$2,000 value in a home, land, poultry, stock, or in anything he may acquire to better his living conditions. Few recipients of the War Veterans' Allowance have been in the position to improve their conditions. They have either been too old or suffering from a severe disability, and if you amend the act by reducing the age limit to fifty years, men will have an opportunity to provide a secured home by the time they reach the age of sixty.

We suggest that section 4 of the War Veterans' Allowance Act be amended by deleting the word "permanently" and adding the word "disability" the words "or/is industrially unemployable."

I shall now refer to "problem cases." The problem cases we have are rather hard to solve. Doctors think that the word "permanently" means 100 per cent disability, and I have heard them say that there was no use making application because the man did not have a 100 per cent disability. The men used to be told that they could operate an elevator. That would be excellent if you passed a law compelling all people with homes to install elevators in order that these men could be placed in jobs. The ex-soldier is in an unfortunate position, and I have no hesitation in saying that as far as the prairie provinces are concerned, under existing conditions, the majority of unemployed ex-soldiers will never be employed.

[Mr. Alexander Walker.]

The examining committee in the various units should have at least one member who is not employed by the department—one who can at least judge the men from an industrial point of view. As far as we are concerned in Calgary, we have three members: one is the doctor and then there are two men on the staff, and if he did not care to allow or to recommend certain action the others would disagree with him. I would say that one outsider should be on that board, and he should be a man who has had some knowledge of industrial conditions. In the last few years in Canada we have had a great many industrial pension schemes. I have examined some of these in our province, and I found that a number of men at the age of 50 would be receiving \$20 to \$30—perhaps \$20 per month. Now, if this age limit were reduced to age 50, many of these men would resign from their jobs and this would be an opportunity for the youth of Canada to get the work.

Now, we have heard a great deal about social legislation. We don't consider this social legislation. I can't see where you must have military service in order to qualify how you can say it is social legislation. I have before me a short brief prepared by the executive of the Calgary Branch, which I will submit to you.

Mr. MULOCK: Pardon me, Mr. Chairman, is that in the record?

The CHAIRMAN: Everything the witness says is being taken down.

Mr. MULOCK: I refer to the memorandum he has presented.

The CHAIRMAN: I think perhaps this had better be read by the witness.

WITNESS: The brief reads:—

*Observations on War Veterans' Allowance:*

The impression used to be prevalent that the War Veterans' Allowance Act was social legislation. This seems to be used as an excuse for a reluctance to reduce the age and also to include a provision for widows after the death of the recipient.

It would seem as if a determined effort should be made to remove the social from the status of this legislation as it would be very difficult to find any legislative provision on a social basis that requires military service to qualify for same.

One may presume that the government of Canada enacted this legislation for the purpose of taking care of ex-service men who are in need and have no disability that can be directly connected with their service. While this legislation resembles some form of social legislation yet the military service qualification brings the subject into a category distinct and apart from any enactments that might be considered as social legislation.

In addition to the above it might be well to suggest that the government be asked to make some provision for the widows of the men who were in receipt of War Veterans' Allowance. The average age of ex-service men is around 48 years and one might assume that the average age for those on War Veterans' Allowance is nearer 60. In the majority of cases after death the widows are from 55 to 60 years and they have lived their working life, and the qualifications for War Veterans' Allowance indicates that there has been no reserve income that might be used to take care of the widows. Some of these women have to go on relief and their care would not be a large expense for the Dominion government.

Failing action on consideration for widows might we suggest that the W.V.A. committee at Ottawa be asked to keep statistical records which would indicate how widows of War Veterans' Allowance receipts are taken care of.



During our last convention we had extracts from the various papers on the question of public opinion. The public today are with the Legion in their endeavour to assist the ex-soldier. I file these with the chairman.

The CHAIRMAN: Let me see them. Does the committee think we should file extracts from the Vancouver Daily Province, the Vancouver Sun and the Calgary Herald on the subject of public opinion with respect to the issue involved?

Some Hon. MEMBERS: No, no.

The CHAIRMAN: It would not be permissible to file them in the House; however, I am in the hands of the committee. If we once start putting editorial opinion into our records we may get them so full of that kind of material that it will affect the value of the evidence.

Sir EUGÈNE Fiset: I think we should follow the same procedure as is followed in the House.

The CHAIRMAN: Mr. Bowler will arrange to have copies distributed to members of the committee.

WITNESS: I will now refer you to Hansard at page 1335. There you will find these words, "after fifty-five." I would be much stronger. That I know is intended to bridge general unfitness and incapacity. What we have to do is to try to put some meaning into the word "incapable," the same as we have done with "permanently unemployable." I am glad to see at the bottom that he has provided for the continuance of this to the present members.

Sir EUGÈNE Fiset: What does his reference to Hansard relate to?

The CHAIRMAN: That relates to my explanation of the War Veterans' Allowance Bill.

WITNESS: I was glad to see that they were provided for, but I am afraid of these three words. In our work with the department with respect to employment for these types of veterans our experience has not always been fortunate. At times they are all right, but again there are times when they do not see eye to eye with us in placing men at work. If you don't see fit to reduce the age limit to fifty for all who served in France, at least any man who served in the forward area should be considered. France recognizes this principle. Their Act reads: "Any man of fifty years of age who has served in a combatant unit or was wounded." And the amount is increased at the age of sixty. "58.93 per cent of total veterans served in France were infantrymen"; "82.38 per cent of total wounded were also infantrymen"; "68.49 per cent medically unfit from the entire enlistment were infantry." These percentages show that service in the forward areas of the war zones was a terrific strain on the men who saw such service, and is without doubt the cause of their high death rate. If you take from these figures the number of pensioners who did not see service in France; the number who were discharged medically unfit who did not see service in France, the average would be about 80 per cent. It is rather a sad outlook for these men when there are so many of them who are unable to buy insurance to protect the home in case of death. They have no hope for the future. These soldiers are in a deserving class, but unemployment, with ill-health and premature old age have denied them a home and brought to them a feeling of insecurity in their old age.

I have prepared some figures as to the death rate of war veterans in receipt of allowances. I will leave these figures with the Committee.

The CHAIRMAN: Just there: There has been some controversy as to whether or not old soldiers die more rapidly than civilians. Have you anything on that?

WITNESS: Yes, sir.

*By the Chairman:*

Q. That is the point you are coming to?—A. Yes.

[Mr. Alexander Walker.]

The CHAIRMAN: You better read your figures as there is some controversy as to that. There are those who say that a soldier lives just as long, if not longer than a civilian of the same age; there are those even who say that he has a better chance of living than a civilian.

WITNESS: Further proof of the high death rate as it exists among veterans can be especially seen in the action of the Returned Soldiers' Insurance Commission who, following 1933, refused to issue any more policies, or allow any increase in existing insurance to be authorized. In spite of the fact there has been 6,976 returned soldiers' insurance policies, with an insurance liability of \$16,398,121 surrendered for cash value since March 31, 1930, and up to March 31, 1935. The commissioners have found that it is still good policy to close their books in regard to issuing any more insurance; this action against a body of men whose average age is forty-seven years, as acknowledged by the Hyndman Commission. For the year 1931—that is the last year for which figures as to death rate is available—I took these rates from a list of insurance companies in Canada; the Prudential, the Manufacturers' Life, the Sun Life, and the Metropolitan, and I found that the death rate amongst returned soldiers was 30 per cent higher than in other companies.

*By Mr. Hartigan:*

Q. Would that be for the same age group?—A. That covers all bodies which make returns.

Mr. MUTCH: That does not mean anything, unless you take into consideration the fact that fifty per cent of the men who have insurance of this kind could not get insurance in any other company.

The CHAIRMAN: That is what it was intended for, sub-standard risks.

Mr. MUTCH: I had one of the original policies myself. That was the inducement to take it, you could not get it anywhere else. Here was five thousand dollars worth of insurance which you could get without any medical examination. I suppose that at least 50 per cent of their business was business that no other company would take.

Mr. STREIGHT: Included in the policies the witness has referred to in line companies are many persons who are not more than 20 years of age.

Mr. MUTCH: You say the average age of returned soldiers is 47. If you want to make a comparison it seems to me you might take the records of companies like the Manufacturers', the Northern Life, the Sun Life or similar companies doing a large volume of business and take their policy holders now aged 47, take them for a similar period or for a particular year. I am rather surprised that it is not more than 30 per cent.

The CHAIRMAN: Particularly since this is return soldier insurance. I remember very well, I was one of the committee which brought it into being. We were told that there were a very large number of soldiers who on account of disability suffered during the war were sub-standard risks and could not get insurance in line companies. I suppose it would be very difficult to arrive at a figure which would indicate those who could have passed the ordinary insurance examination but who took advantage of this return soldier insurance. I cannot see that there is anything that would help us in getting such a comparison either. I believe, however, that that is a thing which has been worked out during the last two or three years. I have been told that it is almost an established fact that the expectation of life for an ex-soldier is just as good as it is for an ordinary civilian of corresponding age.

Mr. MACDONALD: I believe it is the general practice of insurance companies that where a man has been on active service but has incurred no disability as a result thereof not to charge any extra premium. They put them in the same class as people who have not seen service.

WITNESS: The fact that they stopped the policies and would not allow any more insurance to be issued I think is a clear indication that it was not a paying proposition.

The CHAIRMAN: I do not think that was the reason, I think it was a matter of government policy; they did not want to take on any more risk.

General Ross: Yes.

WITNESS: Another thing that has been active is the registration of unemployed ex-service men, by the Canadian Legion, which was submitted and accepted by the Hyndman Commission, as evidence of the prevailing conditions effecting the welfare of war veterans. This registration shows that of all ex-service men registered between the ages of 50 and 60 years 71 per cent of their number served in France, and 33 per cent have been unemployed for three years and up. Surely, if a man has been unemployed for three years, if he has been out of work that long, he is incapable of providing for himself and should be eligible for the War Veterans' Allowance. It shows also that 59 per cent are only able to do light work; 12 per cent are totally unemployable and 63 per cent are on relief. Three years ago when the federal government put in a scheme of work in connection with the Jasper-Lake Louise highway our men pleaded to get on the work; but owing to the fact that so many of them were of this type we asked for a medical examination for all ex-soldiers going on to these jobs. We found that the doctors would not allow a pensioner of 50 years of age to go; in fact, they were very reluctant to pass any ex-soldiers of 50 years of age. At that time we had 313 single ex-soldiers in Calgary; and before coming down to the Hyndman Commission I had every one of these men examined and only 27 per cent were fit out of the total of 313.

Now, these figures that were asked for—why we ask for the reduction from age 60 to age 50. The question of cost always comes into it and to-day your government is assuming 75 per cent of the cost of relief; and the cost of administration, of course, runs to 5 or 10 per cent. I believe that the cost of administering relief by the federal government is less than one per cent. I do not see that it is going to cost a great deal of money to change that age limit to fifty.

*By Mr. Mutch:*

Q. Have you any figures as to the number affected?—A. My figure is around five thousand. If you take into consideration this fact, that a man with his wife and two children in Calgary receive \$47.50 a month—I have the figures here—75 per cent of that would be around \$35.90. Now, if they are paying recipients an average of \$35 it works out at one single man to three married men. In that case a man would have less under the War Veterans' Allowance than he would have under relief; but he would rather have it.

*By Mr. Betts:*

Q. Take it by and large, is that the fact? Will they be satisfied with less money under the War Veterans' Allowance Act?—A. Yes, sir.

Mr. REID: There are districts in British Columbia in which they certainly would not take it.

WITNESS: There is one fine thing about this War Veterans' Allowance Act, it is this; you seldom hear from the men who are getting this grant. They feel better physically, spiritually and morally.

*By the Chairman:*

Q. I gather from what you say that they feel more secure when they are in receipt of a War Veterans' Allowance payment. They are not so apt to be shut off without notice?—A. That is why I ask this, that the same regulation

[Mr. Alexander Walker.]



be used—I might put it this way: I would like to see this government start to function a little more than it is doing now. We don't want these men sticking around the cities. We would like to see them get out where they can do something for themselves, and where they can remove from their lives this fear of poverty. You are putting a penalty on him when he is on relief for it you allow him to go out and earn a few dollars so that he has a little income he cannot get any more relief. I think a married man ought to be allowed to earn, to have a total income of up to one thousand dollars—that would allow him to go out and earn up to \$660—or even a little more.

The CHAIRMAN: You are getting pretty close to suggesting a straight service pension there, and as I understood General Ross he did not want to do that.

WITNESS: I think by doing that you would be encouraging thrift. That is the way I look at it.

Sir EUGÈNE Fiset: I can easily understand how any man drawing relief at the present time would be tickled to death to receive a permanent pension. After all a man is receipt of a pension would be better off than he would if he were receiving relief.

The CHAIRMAN: Even if he is cut down from sixty dollars to forty?

Sir EUGÈNE Fiset: Even in that event, because under conditions as they are at present relief at best is temporary and conditions may change from day to day.

Mr. TUCKER: In order to get relief they have to stay in the larger cities. If they had a straight allowance they would go out into the country, into the small towns where they could get jobs and have a little garden and so on. They could get along much better on \$40 a month that way than they could on \$60 a month in the cities. That is one feature witness names that would be very advantageous.

Mr. MACDONALD: Most of the men who get these allowances would have no dependents. Their children are practically all over sixteen and there would only be the husband and wife.

Mr. MULOCK: I can give you the actual case of a man in our district who would not take relief. How in Heaven's name he and his family existed until he got the War Veterans' Allowance I do not know, but since then he has got along fairly well, and that has ended a lot of trouble. He simply would not take relief, he would not apply for it, he did not want to put his family in such a position. It was through the help of the local veterans' association that he was kept going. He would not go to the municipality for relief.

Mr. MACDONALD: Would you say that was typical of the returned men in your community?

Mr. MULOCK: Not of all of them, but there is a large percentage who do not want relief from civil authorities.

WITNESS: The civil authorities do not want to give the ex-soldier relief.

Mr. MULOCK: They would much rather have them under the War Veterans' Allowance.

Mr. BETTS: I would like to confirm that, as far as my experience goes. I think there is a great deal in what the witness says. If you have a man on relief he is tied down to a big city and he has no opportunity to do anything else but draw relief.

WITNESS: A man would not dare to go out into the country. We have land in the western provinces within city areas where they can get two lots 50 x 100 feet on which they can raise a few chickens or have a garden and in that way augment their earnings a little. They would be happy if they were working. There is nothing worse in the world than for a man to have too much time in which to think.

Mr. MULOCK: We have a large number of men with small places, such as you have referred to. Then, too, these men get a chance to do little jobs which turn up in the district. They have their little homes pretty well paid for, or a large proportion of their cost paid. If that could be extended to include a large number of these people who are really what you would call industrially unemployable it would go a long way towards meeting a very difficult condition. At the present time they certainly are not enjoying security, nor can they have any sense of security when they are faced with the possibility of losing their homes and everything they have. In many cases these men put their gratuities into these homes, and everything they have been able to save, and now they see them in danger of slipping out of their hands. Then they only get odd jobs, but at the same time it helps them on.

*By Mr. Mutch:*

Q. Supposing you have lots of the type you mention available in these western cities, and suppose you put a man on a couple of lots, as you mentioned, the tax rates being what they are I wonder how many of them could earn enough to pay the taxes on the property?—A. The tax on two lots in a case of that kind would be very little. I have checked over a number of these cases and I find that they can get a small place for about \$10 a month and there is usually a couple of lots alongside which they can get for nothing.

Q. Who pays the taxes?—A. The lots are usually owned by the city and the pensioner would not pay taxes on the land. About \$10 a month is the average paid in the cases I refer to.

*By Mr. Mulock:*

Q. Would they rent the land from the municipality?—A. No, from some individual. The extra lots they use really benefit through their planting them.

*By Mr. Mutch:*

Q. How could you put a scheme like that into effect? Most municipal bodies are hard enough up for money now. Where is the money coming from? I am merely suggesting some of the difficulties.—A. My reply to you would be this, I would not suggest any particular scheme but rather just letting the men work out their own scheme, which they would do if they had the chance. I would not have any definite scheme. I would put them on allowance, which would give them a measure of security, and then I would let them work out their own salvation.

*By Mr. Green:*

Q. What you are really saying is that section 7 of the War Veterans' Allowance Act ought to be changed so as to let a man earn more than \$125 a year?—A. I was not speaking of costs.

Q. I said: What you are asking is really that you want the Act amended so as to allow a man to earn more than \$125 a year?—A. Yes, sir.

Q. What figure do you suggest?—A. I should say that in the case of a married man you should allow him to earn up to \$1,000—that would be around \$80 a month. I am not saying he would earn that, but it would give him that security.

Q. You think he should get \$1,000 and also \$240?—A. No, \$1,000 including his allowance. Your married man would have \$480 allowance, and I would let him earn in addition to this up to \$1,000.

*By Mr. Reid:*

Q. How would that work out under the disability clause, the hundred per cent clause; in the case of a man who is seriously disabled or unemployable?—A. We are asking that that clause be wiped out.

[Mr. Alexander Walker.]

*By Mr. Mutch:*

Q. What if he is over 60 but has never been disabled?—A. I think we should bring that age limit down to fifty.

Mr. MACDONALD: Going back to that question as to whether a returned man would rather take a government allowance, even if it were less, than to stay on relief: I am satisfied that not many of them would be prepared to do that. My reason for stating that is that a great many of the small pensioners who have been receiving the federal allowance have in every case where that allowance has not been equal to the municipal relief made complaints and insisted that it be made equal to the municipal relief. They were not satisfied to take a government allowance at any rate less than municipal relief.

General Ross: Of course, they are entitled to the same rate as municipal relief.

The CHAIRMAN: Only since 1932.

General Ross: Yes, since then.

Mr. MACDONALD: But prior to that time they were not satisfied.

General Ross: In 1932 the then minister made it a rule that all relief should be paid at the same rate as municipal relief, at least; in many cases the department pays more.

Mr. MACDONALD: They were not prepared to take a smaller amount because they were getting it there anyway.

General Ross: Relief is very promiscuous.

Sir EUGÈNE Fiset: You have the whole point in that.

Mr. MACDONALD: If they were both equal they would still be demanding government assistance.

General Ross: The point is there is no security to it, it goes up and down every day. A municipality arranges the rate to-day and the department tries to keep pace with them. I will say this, however, that once a man gets a War Veterans' Allowance we very rarely hear anything more about the matter.

*By Mr. Macdonald:*

Q. What is the scale of relief for a family of five in Calgary?—A. That is with three children—\$53.70.

Q. What is it for a man and his wife?—A. That would be \$29.30. \$41.25 is for a man and wife and one child. That is the Calgary scale. Of course, they also get medical attention which the families of pensioners do not get.

The CHAIRMAN: We better put that statement in the record.

February 1, 1935.

### CITY OF CALGARY

#### RELIEF DEPARTMENT, NEW RELIEF RATE

	Weekly food, clothing and incidentals	Shelter calendar month	Total calendar monthly quota
Man and wife only.....	\$ 4.55	\$ 9.55	\$29.30
" " " 1 child.....	6.40	13.50	41.25
" " " 2 children..	7.40	15.90	47.90
" " " 3 " ..	8.25	17.85	53.70
" " " 4 " ..	9.45	19.45	60.45
" " " 5 " ..	10.55	20.65	66.35
" " " 6 " ..	11.45	21.45	71.00
" " " 7 " ..	12.30	22.25	75.65
" " " 8 " ..	13.10 Max.	23.05 Max.	79.85 Max.



Clothing: The above includes \$1 per month for each person on relief.

Incidentals: The above includes \$1.25 for two persons per month and 25 cents per month for each child.

Rent per month not to exceed.....	\$20.00
Light per month not to exceed.....	1.50
Water per month not to exceed.....	2.25
Fuel per month not to exceed.....	7.00

G. THOMPSON,

*Superintendent—Civic Relief Dept.*

*By Mr. Hamilton:*

Q. What type of relief is that; cash, vouchers or what?—A. Well, for a time it was cash and they have used vouchers.

I have a table here which shows the amount spent in the City of Calgary on relief for 1935 and a comparison of that with 1934.

You would save money by paying a War Veterans' Allowance, because the average dependents is 2.4. On our figures here for a man, his wife and one child he would get \$41.25, and for three children it would be \$47.90. Under the War Veterans' Allowance a man would get \$40, but the time he is working out his relief hours for the city he could be spending for himself trying to improve his condition.

*By Mr. MacNeil:*

Q. What about clothing allowance; was clothing issued in addition to that?—

A. \$1 a month to each person.

Q. That is included in the amount?—A. No, above that—\$1 per month.

Q. Fuel?—A. No.

*By Mr. Mutch:*

Q. Rent?—A. Yes, rent must not be over \$20 a month. It is very reasonable; we have natural gas.

*By Mr. MacNeil:*

Q. Are there many cases where you would be expected to accept a reduction, where the \$40 per month would be lower than the scale of relief set by the municipality?—A. In speaking to the men themselves they have stated they would rather have the \$40 than have over that and relief. They do not like the idea of relief.

*By Mr. Mulock:*

Q. This would not make it compulsory; they would have the relief?—A. Yes.

Q. If they can qualify under the proposed amendment. They do not have to do it. If they would rather stay on municipal relief than have the securities under the act?—A. That is a point well taken, but you will find that the better elements would accept this.

*By Mr. MacNeil:*

Q. I would like the opinion of Mr. Walker regarding the proposed amendment of section 4 of the act defining those who are eligible for its benefits?—A. "Unemployable." We do not like that.

Q. What would you suggest in its place?—A. We know to-day that "industrially" is a better word.

Mr. REID: You could not use the word "industrially" to cover a man living in the country.

[Mr. Alexander Walker.]

The CHAIRMAN: You would be up against your elevator man again, would you not?

Mr. MUTCH: It all hinges on who is going to define what the words "permanently unemployable" mean.

WITNESS: That is the most objectionable word—unemployable.

Mr. MULOCK: We have run into that very problem with which the witness is dealing where we have men not going to be settled but actually settled in these little places in the country in a small home with an acre or two of land. I think, probably, the use of the word "industrially" would leave them out in the cold; they would not be included in that definition.

General Ross: Except that the only form of labour available to a man living under those circumstances is, probably, agricultural labour.

Mr. MULOCK: No, that is not quite correct. A lot of those fellows are working on small jobs, such as road repair work and labourer's work where construction is going on. They are employed occasionally for a few days—just something to keep them going—various schemes of the municipalities to provide temporary work to look after the unemployed.

General Ross: I understand what Mr. Walker means is with respect to cases where work of the character they can do is not available, and he wants them regarded as being industrially unemployed.

Mr. MULOCK: There would have to be a wide definition.

WITNESS: I will give you an illustration: take a man who is a painter by trade and who is over fifty years of age and was wounded in the head. In this particular case I found that he was a good mechanic. I went to his former employer and I said, "why don't you give this man a job?" He said, "we cannot afford to put this man at painting baseboards, and he cannot climb." The man is industrially unemployable. But the doctors say, "no; he can do something." Even if you are lying in bed knitting you are not permanently unemployable.

Mr. REID: To come back to British Columbia, the matter is stated very clearly. There are thousands out through the Fraser Valley and other parts of British Columbia who are working ranches of five acres. Now, I know many of those who have given up chickens because chickens did not pay, and they have applied to the war veterans. If you used the word "industrial" they would be ruled out. It is different with a carpenter or a painter or a plumber.

WITNESS: I do not agree with you there, for this reason, that the man made a failure of his work, of the job he is trying to carry on. If he had some allowance he could get by, but that man is a farmer; he could not get work on a farm. Farming is an industry. He may not do it for some reason; but I do not think putting in the word "industrially" would affect the man on the small farm.

General Ross: That is only your argument.

*By Mr. MacDonald:*

Q. Section 4 explains what "permanently unemployable" means. It says: "Provided, however, that the board may, in its discretion in any specially meritorious case, classify as permanently unemployable...." Then it goes on to say what that means. It means: "...any veteran who has attained the age of 55 years and is so incapacitated by reason of permanent disabilities pre-ageing and general unfitness, as to be, in the opinion of the board, incapable of maintaining himself." It is all set out there?

Mr. MUTCH: It does not provide for the man who is unemployable because he has no work to do.

WITNESS: If a man is out of work for three years, he is incapable of looking after himself. We have more trouble with the word "unemployable" than with any other word in the act. When a doctor is examining a man you are putting the doctor on the spot, too. You have to be fair to both parties. You may say that this man could do some little job such as shovelling snow or something of that sort, so he is not permanently unemployable.

Mr. GREEN: The proposed amendment to section 4 reads: "...any veteran who has attained the age of 55 years and is so incapacitated by reason of permanent disabilities, pre-ageing and general unfitness." Now, is it the intention that he must be all these things, disabled, pre-aged and generally unfit?

The CHAIRMAN: We will discuss that when we come to it.

Mr. MUTCH: We will have an opportunity to discuss the amendments from every standpoint.

The CHAIRMAN: Oh, certainly. I think for the present we had better stick to the submissions and recommendations. There is no objection to asking any witness what he thinks of the bill, or any clause of it; but for the moment we are hearing recommendations, and we might as well go on with them.

WITNESS: My reply to Mr. Green would be that with those words still there we are not much better off than at present. We were discussing the costs. I feel that when you are discussing the costs in this act it would also be fair to figure what you are paying now. We have 782 recipients. These men would be receiving the old age pension, if they are not getting this allowance. That would mean \$187,680. I asked the administrator for relief in the province of Alberta to check over the amount for single unemployed and the costs. We have 946 in our province as compared with 589 of a year ago. The cost to the government is \$13.50 per man per month, plus the administration. So, if these men were getting the war veterans' allowance, say, \$20, you would only be paying the difference between \$13.50 and \$20. That is \$6.50. I think it is only fair that I should explain these costs to you. Then, again, you have 11,541 small pensioners who receive a sum total of \$2,042,354.79. That worked out at \$15 per man per month.

Now, a number of those men, if the age was reduced, would be accepting the war veteran's allowance, and there again you are paying out \$15 per month per man now. I have some more figures.

*By the Chairman:*

Q. Have you figures to show what the cost would be to bring the war veteran's allowance down to age 55?—A. I put my figures in before the Hyndman commission, sir—something less than \$3,000,000 per year—the actual cost over and above what you are paying now.

Q. Less than \$3,000,000 per year, gradually increasing?—A. Yes, gradually increasing; but as your war veterans' bill increases your pension bill will come down. Your major bill is your war veterans' allowance bill.

Q. Is there anything in this statement that has been made in the house several times—it was made last year—that if the provisions of the War Veterans' Allowance Act took in soldiers down to 55 it would cost \$25,000,000 extra in ten years, and if it took down to 50 years it would cost \$68,000,00 in ten years over and above what it is going to cost now?—A. My figures differ—

Q. You do not agree with that?—A. No, no; it is far too high. And another consideration is that he is being paid now and it is all coming out of the same public purse.

*By Mr. Macdonald:*

Q. Have you any figures to substantiate what you have said?—A. Just the figures I worked out myself, which would not be accepted by the government. [Mr. Alexander Walker.]



ment. I presented them to the Hyndman committee on 50 and 55, and I also figure now what they pay to the municipalities in the way of relief, pensioners and non-pensioners. I spent some time in getting the cost of them. Over a period of sixteen years it will be noted that the number of pensioners who have died, related to service, are approximately in the same proportion as those that have died not related to service. Those who died not attributable to their service worked out at 118 per thousand. I am taking those who died "not related to service," and at 118 per thousand it figures out almost seven per thousand. Then I worked out the death rate in Canada of all ages of the male population, and if you take it over a period of 16 years you can safely say that 35 years is the age of these men when they die. I am going back sixteen years. I find that from age 35 to age 39 the number is 357,081 of the population of Canada to-day with 1,509 deaths or a percentage of .42 of 1 per cent and yet the pensioners are around seven per thousand.

*By Mr. Mutch:*

Q. During the same ages?—A. Yes.

*By the Chairman:*

Q. I do not know where you could get the other figures, but have you any figures as to the deaths of ex-soldiers and non-pensioners?—A. Yes.

Q. Where did you get them?—A. Having died related to service.

Q. Oh, those are the figures of pensioners?—A. Yes.

Q. But, you have no figures of soldiers who never drew a pension? You cannot get them?—A. No. Mr. Chairman, I figure it this way that if a pensioner died and his death was not related to service then he is in the same standing as a civilian. I think that is fair; but you have almost seven per thousand against .42 of 1 per cent. That is all I have to say on the War Veterans' Allowance. I have a short memo here on unemployment.

Q. Does this coincide with your figures? I take this from the annual report: "Statement showing the number of deaths during the fiscal year ending March 31, 1935, of pensioners and those on whose behalf allowances were being paid." That is not necessarily pensioners.

Death related to service total 331.

Death not related to service total 623.

Death in relationship to service, not decided, 36.—A. I am going over a sixteen year average.

Q. That is where you got your figures?—A. Yes from the blue book; but I am going over a period of sixteen years.

MR. TUCKER: I would like to ask Mr. Walker's opinion in regard to extending this act. People over sixty can draw this allowance on the ground either that they actually served in a theatre of war or that they are drawing pension on account of disability of over 5 per cent. If they are drawing a pension for a disability of over 5 per cent even if they never left the shores of Canada they can draw this war veterans' allowance; on the other hand, the man who proceeded to England and for some reason was kept there, possibly against his will, and is now absolutely unable to look after himself, has got to wait until he is 70 years of age before he can draw any help.

THE CHAIRMAN: He does not come in under the War Veterans' Allowance Act.

MR. TUCKER: My own opinion is that a man who enlisted and got as far as England and was kept there because he was more valuable in England than he would have been in France is as much entitled to consideration as the man who enlisted in this country and stayed in this country and happens to get an allowance of, say, 5 per cent disability. I would like to know what the witness thinks of extending the act to people who got as far as England.

WITNESS: I will reply. As far as relief is concerned these men should be accepted. I suggest that all men on relief should be wards of the Federal government; and with regard to the man who did not go to France I would say that his case should be taken on its merits. I find that there were 28,000 some odd men discharged medically unfit eleven days before the armistice. I wonder if they had cushy jobs over in London or were they good fellows who were really sick? I do not know. I am not saying anything. As far as concerns men who did not go to France I think they should be examined on their merits.

*By Mr. Tucker:*

Q. Would you suggest that there should be a clause giving this particular discretion in the case of people who have not got as far as France—giving them allowances regardless of the fact that they did not get to France?—A. Yes. There might be quite a few cases of men who suffered disabilities—not pensionable disabilities—because if a man is pensioned he is eligible; but there are cases of good men who did not go to France through no fault of their own, and I think there is something coming to them.

*By the Chairman:*

Q. I think the phrase you have used there, Mr. Walker, sums up a good deal of your evidence; that if they were in the army at all they should be wards of the Federal government; is that your view?—A. As far as relief is concerned.

Q. As far as everything is concerned. There would not be any use bothering about the War Veterans' Allowance Act, would there?—A. I did not go as far as you do, Mr. Chairman, in as far as the War Veterans' Allowance Act is concerned. I say relief, yes.

Q. What is the use of having it?—A. The municipalities do not want the ex-soldiers. The ex-soldiers organizations many times receive a phone message that some chap is going down to the city sick and we are expected to put this man into the Belcher hospital. We cannot do it. We have to provide our own funds because that man is out of his municipality. That is the psychology of people in municipalities with regard to the man who saw service in France: that the government looks after him. I am not going as far as—

Q. We are going to come to that sooner or later; we might as well discuss it here. Are you going to depart from the principle that has been followed ever since the war, that only those who actually suffered disability in time of war should be wards of the Federal government with certain exceptions met by the War Veterans' Allowance Act, or are you going to say that these fellows served the Federal government overseas and should be taken in, and that would mean that the Federal government would pay for relief for all ex-soldiers?—A. We are doing it now.

Q. It depends largely on what we think of the solvency of some of our provinces. I think that point is one which we will have to settle. No Federal authority so far has been willing to take the responsibility of saying that they would look after the relief of all ex-soldiers?—A. They are doing it. They can say what they like. Take the single men with \$13.50 per month. They are being paid by the Federal government. 75 per cent of the relief is being paid by the Federal government. It is coming out of the people's purses in Ottawa. Say what you like about it.

MR. TUCKER: There are all kinds of returned soldiers in my constituency. Some of them are not getting enough to live. In a city like Calgary or Saskatoon the condition is different; but in the municipalities—the small towns and villages—they certainly do not believe in paying anything on relief if they can avoid it. As a matter of fact, the amount spent by Rosthern would not cover two or three hundred people for all the people who need help there, and a lot of these

[Mr. Alexander Walker.]

people are returned soldiers. I do not know how on earth they get along and keep their families clothed and fed so that their children can go to school. That is a condition that is prevalent in the rural areas all over this country. Now, many returned soldiers to-day are hardly getting enough to keep their children. In the cities it is somewhat different; but there is no help going from the Federal government to-day to pay relief to the rural areas; there is no money going to help keep these children. It seems to me that that should be borne in mind in considering a question like this. We do owe something to these returned soldiers, and we are not paying a cent, except such allowances as they get by way of relief.

The CHAIRMAN: We are looking after all those who are pensioners, but we have not accepted the principle of looking after those who are not disabled.

WITNESS: That principle is suggested in the Hyndman report.

In regard to unemployment, there is little one can say without repeating what has been said. The majority of unemployed ex-soldiers in the prairie provinces will never be employed. We have our unemployed committees busy looking for an opportunity to place men, but with little result. The homes of these men are, in the majority of cases, badly in need of replacements—the food allowances which have been computed by dieticians are not high enough. It is too had dieticians do not practice what they preach and try to live on the same allowance they prescribe for the unemployed. Let the Dominion government accept responsibility for all unemployed ex-soldiers. Your cost is slightly less than 1 per cent while 5 per cent and over is common in municipalities. The amounts provided under P.C. 91 1of May 3, 1922, were fair and allowed a man to get by where he would be unemployed only a few months during the winter, but there is far too much difference between the rates paid under P.C. 911 and the rates paid to-day. You men have a wonderful opportunity to do something for your comrades. The unemployed ex-soldier is looking upon this committee as he has never looked upon any other committee. He knows you are ex-soldiers; you are men who are bound to be sympathetic, knowing conditions as they were. He knows you are fed up with the idea of relief and he feels that you will bring in some recommendation which will allow him to take some of the bitterness out of his soul—allow him to look to the future with more hope; allow him to bring up his family in a better manner than he has been able to do in the past.

The question of cost will also come into this subject and the argument will be used that the budget must be balanced. Budgets will be balanced and unbalanced for many years to come, but these veterans have not many years to live and what right-thinking Christian person gives a hang about a budget as long as money is being spent properly.

Now, let me explain this to you. The people have lost all sense of figures since the war. If I told you that Great Britain was owing the United States one hundred billion dollars and I gave you a cigarette you would think more about lighting your cigarette than you would about the figure; if I told you that Great Britain had loaned the United States \$1.50 you would remember that because you probably have \$1.50 yourself. As long as the money is going to be spent in the proper place that is all they are worrying about. The only man who is worrying about the budget is Mr. Dunning.

I have a brief here prepared by men who have been out of work from five to six years. I did not have time to have copies made, but you might like to have it in your record. This brief was prepared by men whose homes were in bad shape and who, to put it bluntly, can see no hope in the future. This is very well written and I think perhaps copies should be made for the use of members.



*By Mr. Hamilton:*

Q. Is it an organization or a group?—A. It is just a group of ex-soldiers. It is just a statement of their ordinary affairs, they have got down to work and tried to explain it.

I have hopes that this committee will make a name for itself. If it does not, I do not want to appear before any other. If a group of ex-soldiers like yourselves can get down to brass tacks and tell the other members of the House, and the members of the other House, what you think about our problems you can do the ex-soldier a lot of good. I could tell you a lot of cases. I have in mind one of a pensioner who had a good job. He had a bullet-shot through the lung and he got so he could not hold his job. This man earned as high as \$8 a day, but he lost his job on account of his disability. Of course, he got a small pension. Then, he didn't get married until after 1933—and in doing that he saved the government thousands of dollars—and that is another thing I object to. This man got \$43 back pension and he came to me and he said, what am I supposed to do with this money. I told him to go down and spend every damn nickel of it, buy his wife a dress, buy some things for his child, and buy some things for the house. If anybody says anything to you you can just tell them that Walker told you to go ahead and spend the money. Later he told me that he spent this \$43: he fixed up his stove, fixed up a chesterfield chair, bought his wife the dress and something for his little girl and he says, we are quite comfortable now. It is quite touching to see a case like that, to realize that a man can be happy in a little home like that. We have a little organization there, a number of returned soldiers whose purpose is to help other ex-soldiers who are sick, help them take off the storm-windows, help them with the garden and so on. We don't have to apologize to the people of Canada for helping these men.

Mr. MACDONALD: What organization does the witness represent?

The CHAIRMAN: He represents the Canadian Legion, he is a member of the Dominion executive representing Alberta.

WITNESS: I have been coming down to Ottawa since 1923, and it is changed a lot to-day. I remember coming down here in the early days when we had no friends. Power backed us up, but it was all very very different. It is a pleasure to come down here to-day and talk to you men. In plain language, the Lord help you if you don't do something.

*By Mr. Green:*

Q. The witness mentioned early in his remarks something about a distinction being made between combatant and a non-combatant in France. I would just like to ask if he does not think it would be an impossible job for anybody to set out a line of demarkation?—A. If you don't see fit to reduce the age to 55, at least give some consideration to the men who served in the forward areas. If you take the infantry, the machine-gun corps, the cavalry corps and the artillery; you will find practically all the figures there. I have the figures for every branch of the service, and the percentage of casualties I think indicate that the men who served in the forward areas for a long time—it would be rather a good idea to get your committee to take a man's service into account. Those men are not the same to-day.

Q. You think they could be clearly divided?—A. Give your board discretion.

*By Mr. Macdonald:*

Q. Is it so, that the government of France does that?—A. They agreed that a man at 50 who served in a combatant unit—

The CHAIRMAN: Some men who were enlisted in a combatant unit never heard a shot fired.

[Mr. Alexander Walker.]

Mr. Mutch: You will not have so many applications coming to that board if you put that discretionary clause in it.

*By Mr. Macdonald:*

Q. But, the government of France does distinguish between classes in its regulations?—A. If you served in a combatant unit, served at the front or were wounded, you are entitled to a certain sum at 50 and double that amount at 60

*By Mr. Mulock:*

Q. Do we understand you to say that you would be quite satisfied if the age limit were reduced to 55; that these words should be changed?—A. I would be tickled to death.

Sir EUGÈNE Fiset: He would be tickled to death to have it reduced to 55. That is provided for in the bill.

WITNESS: If you reduce that age limit to 55, and take out clause four, we will be getting somewhere. We are trying to assist the department in placing men, and this is our own idea that we have tried from our own experience.

The witness retired.

General Ross: Before we go on to the next witness I would like to clarify our situation in regard to a question asked by Mr. Tucker in regard to the case of a man who served in England. For those who were not here in 1930 let me say that the War Veterans' Allowance Act was asked for by the Canadian Legion originally on the distinct basis of service in the front line, and we never asked for anything more than that. That committee in its discretion saw fit to extend the benefits of the Act to pensioners who contracted a disability in Canada or England. We personally did not desire to extend that any further. As a matter of fact when I come to speak about that subject I will have some suggestions to make without endeavouring to restrict the benefits which may be extended in any instance. We do not believe in breaking down that principle. I am entirely sympathetic with the views expressed, and we want to avoid discrimination. We know that there are men who served in a combatant area—a theatre of war—who did not suffer any more than a man in Canada, he might even have been a little more comfortable. But you simply cannot draw a hard and fast line.

The CHAIRMAN: In other words, you should draw a hard fast line.

General Ross: No, we cannot define. You have got to take one area. If you step into England you have let them all in, and that breaks down our main principle; which is that a man who saw service in a theatre of war should be presumed to have suffered far greater than a man who did not see service in a theatre of war.

The CHAIRMAN: We will probably hear in this discussion of the conducting officer case; as to whether a conducting officer should qualify as having served in a theatre of actual war. I think the committee held that he should not, on the ground that he was not attached to some combatant unit. That is a question that is sure to come up. In the meantime I think perhaps we should go on with the subject we have before us this morning.

General Ross: I will now call on Mr. T. A. Barnard of Nanaimo, B.C., representing the B.C. Provincial Command of the Canadian Legion, B.E.S.L., who will also discuss the matter of War Veterans' Allowances particularly.

T. A. BARNARD, representing B.C. Provincial Command of Canadian Legion, B.E.S.L., called.

WITNESS: First of all, may I say I was exceedingly nervous all last night, so much so that I could not sleep. I was very much encouraged this morning to find it raining. I take it that this committee arranged for the rain so as to make

me feel at home. You will also see that I have a memorandum and notes here. I will be glad to file these with you when I have finished.

In speaking with regard to War Veterans' Allowances I want to draw to your attention that the case has already been made out in respect to it.

In regard to the War Veterans' Allowance Act, which has been so beneficial to many veterans, reference should be made to certain remarks contained in the Hyndman report, which reads in part as follows:—

It was stated that there were from 700 to 750 veterans on relief in Verdun, apart from pensioners. It was obvious that these men were undernourished to the point where many would be unable to undertake manual labour, even where it is available.

Or, in other words, men who insisted in putting Canada on the map as a treaty-signing nation within the Empire now find themselves in such a starved condition that they are unfit for manual work to-day. That is not a mere restatement of what the Hyndman commission found, it is condition which we have. We are here to try to assist in the remedying of it. We say it is a disgrace to Canada, it is humiliating for a man. We do not believe Canada wants that situation to continue, and certainly the men we represent do not want that condition to continue.

I would like to enlarge on that for a moment to say that the Hyndman commission visited relatively but few places—I think it was four places they visited—but had they visited western Canada they would have found similar conditions. That is typical of conditions which prevail all over Canada. I listened with great pleasure last November to the broadcast by the honourable the minister—we don't call him that when he is not around, we call him "Chubby"—but I listened to him and at that time he gave us the figures I use here. I took them because I thought they would be at least somewhat conservative.

The CHAIRMAN: And he took them from the report of the commission.

WITNESS: But you didn't say that in your broadcast or at least we did not hear that over the air in British Columbia. There was no qualification at all. However, there are now in the neighbourhood of 40,000 ex-service men who are non-pensioners on relief. We call it "on the dole" in British Columbia; you are more aesthetic or classical down here in Ottawa and you call it "relief." No doubt, a fairly good percentage of this number are veterans of 50 years of age and over. Only a few of these ex-service men will ever work again, at least in our province. The reason for that is that in British Columbia we have but three major industries; mining, lumbering and fishing; or fishing, lumbering and mining, which ever way you prefer to put it. If any of you gentlemen know anything about these industries you know that it takes a "fit" man to do that kind of work, "fit" physically. We see very little chance in British Columbia of any of these men, or any material number of them being again absorbed into industry.

There are 6,000 veterans, on your own figures, on relief in British Columbia. The sixth Dominion convention of the Canadian Legion, held recently in Vancouver, with one dissenting vote—some weak voice somewhere in the audience spoke against it, but I do not know who it was—again endorsed the proposal:—

That without qualification in any way the qualifying age for the War Veterans' Allowance should be reduced from 60 to 50 years of age, and that below the age of 50 years industrial incapacity, as well as physical or mental incapacity, be taken into account when granting allowances.

I might say, Mr. Chairman and gentlemen, that we do not agree with the suggested amendment to the Act relating to that point.

[Mr. T. A. Barnard.]



So far as we are aware, up to date, no other proposal has been put forward that will deal in an adequate manner with the position in which many of the older ex-service men now find themselves.

In many instances employers of labour endorse the proposal that the age limit be reduced from 60 to 50.

May I say, for your information Mr. Chairman, that I have a copy of a letter addressed openly, to whom it may concern, by one of the largest coal companies in western Canada, one not known for its philanthropy, which endorses the request of the Canadian Legion regarding the matters I have just mentioned. I will leave that with you when I have finished.

Then, there is another side of the picture which has been touched on briefly, and I want to endorse what has been said in that connection and add a little to it. That is, in connection with the young people. We have in British Columbia in addition to the war veterans among the unemployed some 22,000 single men who are drawing relief. From that I think you will readily see that there was very little opportunity for a veteran, burned out and prematurely aged, and so forth, to again be re-employed in any of our industries, particularly the ones I mentioned, our major industries. There is another matter in that connection which was passed at our convention and which I wish to draw to your attention; and that is in connection with widows, or recipients of war veterans' allowances. We say:—

We would direct the attention of the committee to the unfortunate position in which a number of the widows of recipients of war veterans' allowance now find themselves in. After being in receipt of the allowance for some years they are after a period of twelve months deprived of the allowance and thrown upon their own resources at an advanced age. Their plight should be given some consideration.

These ladies are getting along in years. They have been in receipt of war veterans' allowances in conjunction with their husbands. The husband dies. They are turned out in the cold. Our convention suggests that you seriously consider, not giving them a new grant, but continuing the present grant now enjoyed by the husbands.

*By Mr. Macdonald:*

Q. They get it now, for a year, do they not?—A. They get it for a year now.

Q. They get a federal grant for one year, if I understand it correctly?—

A. Paid at the same rate as was being paid in the husband's lifetime.

Mr. MACDONALD: They get \$40.

Mr. BOWLER: It depends, I think, on what was being paid during the lifetime of the husband.

Mr. MACDONALD: If the husband got \$40 during his lifetime the widow would get \$40 for one year.

Mr. BOWLER: The committee have discretion over that.

WITNESS: The convention did not ask that she continue to get \$40, but we are asking that you seriously consider the plight of these ladies, who are getting along in years, and that they continue to be granted their proportion of what has been previously paid to the husband—the maximum there would be \$40, and that would be one-half to the widow.

*By the Chairman:*

Q. That she should get that for the remainder of her life?—A. That is what the convention asked for.

*By Mr. MacDonald:*

Q. Is that what you are asking, witness?—A. Yes.

*By Mr. Mulock:*

Q. Until she re-marries?—A. Oh, yes; sure, I think that is a natural precaution.

WITNESS: There is another question which was dealt with at the convention to which I wish to draw your attention, and that is in connection with veterans of previous wars:—

Believing that the time is more than overdue when it will be necessary to depart to some extent from the intentions of those who framed and passed the War Veterans' Allowance Act of 1930, this owing to special conditions that have arisen since that time, and appreciating the difficulties of veterans who fought for Canada and the Empire in previous wars, and the apparent neglect of this country to take care of its old veterans, we favour the War Veterans' Allowance Act being amended so as to permit an allowance being made to men who saw service in an actual theatre of war in campaigns prior to that of 1914-18.

And there is another phase to which I want to draw your attention which was dealt with at a previous convention. It is in connection with war veterans in the United States.

General Ross: That was withdrawn this year.

WITNESS: Just pardon me a moment, General Ross, I am not speaking of anything that was withdrawn. War Veterans' Allowances:—

The War Veterans' Allowance Act as already framed insists that veterans who served in the C.E.F. but are now resident in the United States must upon returning to Canada reside in this country for a period of twelve months before obtaining the allowance. We feel that this legislation is unfair and a discrimination against a man who in many cases had to go to the United States because Canada did not carry out promises made to rehabilitate them upon return from overseas service. We recommend that the qualifying period of twelve months be reduced to three months.

That is to say, if a veteran comes back into Canada he now has to be resident here for a period of twelve months until he is eligible under the Act. We think that is an undue hardship. Coming back into a country for which he fought; we believe that that should be materially reduced and we suggest that it should be three months.

That is all I have to say in connection with War Veterans' Allowances. If you have any questions to ask me I hope you don't ask them as quickly or as hard as you did to the witness who preceded me.

The CHAIRMAN: Have you any questions to ask this witness? If not, we will adjourn.

General Ross: To-morrow morning I will endeavour to wind up my presentation. I have to leave to-morrow night, so I will endeavour to conclude my observations, and will run through the new bills to-morrow morning. Will that be satisfactory to you?

The CHAIRMAN: Yes.

The committee adjourned to meet again to-morrow, April 7, 1936, at 11 o'clock a.m.

## APPENDIX "A"

STATEMENT Showing extent to which Recommendations of the Hyndman Committee regarding Unemployment Assistance are being implemented as on November 1, 1935.

(1) In these recommendations, "veteran" means a Canadian pensioner who is in receipt of payment of pension under the authority of the Canadian Pension Commission; an Imperial pensioner who was domiciled in Canada before the 1st January, 1935, and is in receipt of payment of pension by the British Ministry of Pensions, or who was granted a final payment in respect of a permanent disability between 5 per cent and 20 per cent; also any other ex-soldier eligible to receive unemployment assistance under these recommendations.

(2) That the term "relief," as applied to veterans, be discontinued and in place thereof the term "unemployment assistance" be used.

(3) That the present voucher system be discontinued and payment in cash substituted therefor, except that in any case in which the department considers it would be more advantageous to the veteran or his dependents it may be issued in full or in part by voucher.

(4) That the unemployment assistance issued by the department to veterans be not less than the relief issued to the civilian population in the municipalities in which they reside. If the municipal rate is less than the department's maximum basic rate, the latter to apply; provided that if, in the opinion of the department, after a review of the individual circumstances, a lesser sum than the basic rate would be sufficient, such lesser sum shall be issued.

(5) That the maximum basic rate of the department be the equivalent of a 25 per cent pension in the case of a single man without dependents and a 30 per cent pension in the case of a veteran with dependents; this basic rate

This is being implemented in the cases of Canadian pensioners. With regard to Imperial or pensioners of other Allied Forces, none is eligible who have taken up domicile in Canada since December 1, 1924. This practice has been in effect since December 1, 1924.

Implemented in July, 1935.

Implemented on September 1, 1935, except where administration of assistance is deemed necessary.

Implemented.

Implemented.



to include the following minimum amounts for food in the case of those with dependents.

	Per month
Man and one dependent.. ..	\$11 50
Man and two dependents. . .	15 50
Man and three dependents. . .	19 50

With an addition of \$3 per month in respect of each dependent in excess of three.

(6) That from the amount of unemployment assistance granted by the department, all income of the veteran and his family be deducted with the following exceptions:—

(a) In the case of a disability pensioner a 5 per cent pension shall not be considered as income.

(b) If a member of a veteran's family is employed, only the earnings of such member in excess of \$40 per month shall be considered as income.

(c) Any casual earnings up to \$10 per month shall not be considered as income.

(d) With respect to the months of December and January, any earnings from casual employment, such as special work during the Christmas season in the post office, not exceeding thirty days in all, shall not be considered as income.

(a) Not implemented.

(b) Implemented.

(c) Implemented.

(d) Will be implemented when time comes.

(7) That should an ex-member of the Canadian forces who has seen service in a theatre of actual war, or in the British Isles; or an ex-member of the Imperial forces domiciled in Canada prior to the 1st January, 1935, who has seen service in a theatre of actual war during the Great War who is not in receipt of pension, be in receipt of relief from the municipality in which he resides of a lesser amount than the basic rate of the department for unemployment assistance, the department be authorized to supplement municipal relief by a grant of unemployment assistance which would bring the municipal relief and unemployment assistance up to an amount equal to the basic rate of the department, unless a lesser sum is deemed to be sufficient.

Has not been implemented.

(8) That the department issue unemployment assistance in respect of the dependents of pensioners over the pension age limit if relief in respect of similar dependents in the families of civilians is issued by the municipality in which they reside, and in any other case, when, in the discretion of the department, it is deemed advisable so to do.

Implemented.

(9) That if a veteran owns the house in which he is residing, the department be authorized to issue unemployment assistance to cover current taxes and mortgage interest, provided that the sum for both does not exceed the rental allowance granted by the department on a similar house, provided also that if taxes or mortgage interest are in arrears and the current taxes and mortgage interest are less than the rent allowance, the department be authorized to issue additional unemployment assistance for the difference and to apply the same against such arrears.

Implemented in so far as arrears of interest are involved, but with respect to taxes, only implemented to the extent of authorizing assistance where taxes are three years in arrears.

(10) That, if through provincial, municipal or voluntary effort, schemes are evolved for placing men and their families on small holdings or market gardens, the department be authorized to co-operate, by capitalizing the unemployment assistance which it would normally issue over a period of one, two or three years, or by continuing unemployment assistance in full or in a lesser amount, notwithstanding the fact that the veteran and his family are raising part of their food.

Not implemented as no schemes have yet been evolved.

(11) That except in the case of single pensioners without dependents, the department be authorized to make arrangements for the furnishing of such clothing as may be necessary to pensioners and their families who are in receipt of unemployment assistance in any centre where clothing is issued by the municipality to civilians on relief; also that in any other centre where failure to issue clothing to a pensioner and his family would result in distress, the department be authorized to make such arrangements as the circumstances may warrant. The increased allowance for single pensioners should be sufficient along with casual earnings to provide clothing.

Except in those municipalities where clothing is still being supplied by the municipality or other agency to pensioners who are securing assistance from the Department, arrangements have been made by the Department to furnish necessary clothing. Such arrangements have been made to apply to all cases in the provinces of New Brunswick, Manitoba, Saskatchewan, Alberta and British Columbia. In the province of Quebec clothing is supplied by the Department to pensioners in Quebec City and Greater Montreal. In Ontario, by arrangement with the Department, the Provincial Government has supplied clothing to pensioners residing in

(12) That if a pensioner with dependents is working and his income is just about the equivalent of the amount he would receive if he were in receipt of unemployment assistance, which renders him and his family ineligible to be granted medical attention or clothing, the department be authorized to procure for him such medical attention as it may deem necessary through the municipality and to issue such clothing as it may deem advisable in the circumstances.

(13) That the War Veterans' Allowance Committee be requested to arrange for periodical visitation of various centres throughout Canada, by one or more members of the committee, in order personally to interview applicants for War Veterans' Allowance, who are under sixty years of age and who cannot be classified as permanently unemployable from a medical standpoint, but appear to be so from an industrial standpoint, in order to determine whether or not such applicants shall be awarded War Veterans' Allowance.

(14) That in view of the contributions of the Federal Government towards municipal relief and the payment by the department of unemployment assistance, to the obvious advantage of municipalities they be urged to co-operate with the department in the following respects:—

(a) The investigating staff of the municipality to be placed at the

those municipalities whose relief schemes are supervised by the Department of Public Welfare, for the sum of \$2,000 per month from May 1, 1935. This arrangement has been extended to October 31, 1935. In Ottawa clothing has in the past been supplied by arrangement with the Neighbourhood Services at a nominal charge to the Department.

In any other centre, where necessary clothing cannot be obtained by a pensioner from any source, arrangements are made by the Department for a supply of clothing.

As Recommendation 6 (a) was not implemented, single pensioners are being provided with clothing.

Not implemented.

This is being done by the War Veterans' Allowance Committee.

- (a) No steps in this direction have been taken.
- (b) No steps in this direction have been taken.
- (c) This has been done wherever possible with respect to clothing.



service of the department without cost.

(b) Any municipal work made available for recipients of municipal relief to be made equally available for veterans who are in receipt of unemployment assistance from the department.

(c) Any facilities for the supply of clothing or fuel to civilians on relief to be made available at cost to the department for the benefit of veterans entitled to unemployment assistance.

(15) That it be understood that no unemployment assistance shall be issued by the department to an unemployed veteran unless he is registered at an Employment Office or that evidence is produced to the department that work has been sought and is not available. It is considered that if any veteran refuses employment for which in the opinion of medical officers he is medically fit, without valid reason therefor, he should be refused further unemployment assistance.

This has been the practice of the Department for several years.

(16) That as the present staff of the Department of Pensions and National Health, engaged in the administration of relief, is numerically inadequate for the proper conduct of the work and the investigation of the home conditions of applicants, and as the foregoing recommendations will entail the employment of an increased personnel for these purposes, the department be empowered, through the Civil Service Commission, to create such additional positions and to engage such additional staff as may be necessary.

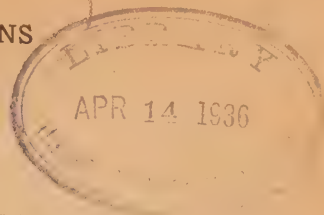
Six automobiles have since been purchased for the use of investigators and have been allocated as follows: Montreal, 1; Toronto, 2; London, 1; Winnipeg, 1, and Vancouver, 1. The adoption of the cash system of the issues permits issuing officers and their assistants to devote a portion of their time after the 7th day of each month to investigation work.



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SESSION 1936

HOUSE OF COMMONS



SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 4

TUESDAY, APRIL 7, 1936

## WITNESSES:

General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League.

Captain P. J. Philpott, Secretary, Canadian Legion of the British Empire Service League, Saskatoon, Saskatchewan.

Mr. Robert Macnicol, Provincial Secretary of the British Columbia Command of the Canadian Legion of the British Empire Service League.

OTTAWA

J. O. PATENAUDE, I.S.O.,

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936





## MINUTES OF PROCEEDINGS

APRIL 7, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11.00 o'clock a.m.; Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Beaubier, Betts, Brooks, Emmerson, Fiset (Sir Eugène), Green, Hamilton, Isnor, Macdonald (*Brantford City*), MacNeil, McLean (*Melfort*), Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), Streight, and Tucker—19.

General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League, was recalled, examined and retired.

Captain P. J. Philpott, Secretary, Canadian Legion of the British Empire Service League, Saskatoon, Saskatchewan, was called, examined and retired.

Mr. Robert Macnicol, Provincial Secretary of the British Columbia Command of the Canadian Legion of the British Empire Service League, was called, examined and retired.

General Ross filed with the Clerk of the Committee the "Canadian Legion Survey of unemployment among ex-servicemen"; also a "Memorandum submitted by the Canadian Legion in respect to Bills Nos. 27 and 28 in the House of Commons."

Captain Philpott filed letters and statistics regarding unemployed ex-service men in Saskatchewan.

The Chairman announced that the subcommittee on Correspondence would meet in Mr. Mulock's room at 1.00 o'clock.

Mr. Emmerson's name was in error omitted from the list of members present at the Committee meetings on Thursday, April 2 and Friday, April 3. He was present at both meetings.

The Committee adjourned at 1.00 o'clock, p.m. to meet again Tuesday, April 21, at 11.00 o'clock, a.m.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

APRIL 7, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman, presiding.

The CHAIRMAN: Order please. General Ross, will you give us your little story, please.

General Ross, recalled.

General Ross: Mr. Chairman, you heard yesterday from the witnesses from the west some idea of conditions there. I think probably they impressed you with the fact, and with the knowledge, that there is a very distinct problem with regard to unemployed veterans. As I mentioned yesterday in opening—and I have not the time nor the desire to recapitulate all that was said upon this subject—I think we should start say from the Hyndman report: I have already circulated the brief which we submitted to that committee and which contains all the information I have been able to gather.

Let me say that for the last few years I have given intensive consideration to this problem, and I think in what I have given you there I have given you all I have been able to collect both as a result of the Legion's survey, and of my contacts with all parts of the country. I am impressed with the fact that Canada does face a very serious problem in the number of men, now rapidly growing, who have not been absorbed into industry and who are not likely to be.

Let me make it clear at the outset that we have never advocated and do not desire to advocate any pension for service as such, but we are endeavouring to enlist the support of this committee to a consideration of the problem as to whether or not there is something specially due to the man who saw real service and who now finds himself an economic castaway.

Summarizing it let me put it this way: we admit a contractual responsibility for the man who suffered an actual disability during the war, but we find such a large number who are now severely affected by economic conditions. We need to inquire as to whether or not perhaps their service as such did not have some relation to their present condition; because, after all, we do know that a good many preferences were extended to ex-service men which should have tended to absorb a good many of them, but as an actual fact we do find there is a very large percentage unemployed; and the point is now whether they ever can be employed in the ordinary routine of industry. Now, that is one point I wish to stress. In the Hyndman report we have the picture as we saw it, and in addition to the evidence they called into consultation employers of labour and discussed with them the possibility of these men being absorbed in the event of industry becoming normal. And the consensus of opinion among the employers of labour is that no matter how sympathetic they might be it will be almost impossible to absorb a great many of these men in the ordinary way. That is the point which impresses itself upon us as we survey the situation. We must realize that the whole machinery of industry has been thrown into dislocation in the last five years, and in that process many of these men who thought they were settled for life have been laid off. They are now at an average age of 47. A great many of them suffer real war disabilities; and the whole group suffers, I suggest, from the other disability of the lack of opportunity when they were

young men of fitting themselves into the economic life of the country; and a great many of them suffered from the lack of training. It is quite true that after demobilization provision was made to take care of these men by training; but we also know that on account of the conditions of the time and the sort of restlessness which prevailed very many of them failed to make adequate use of the facilities; and also it is perhaps questionable whether these facilities operated as successfully as they should have done. In any event, we have that fact; and that it is a fact is I think indicated by a survey of the figures in regard to our unemployed pensioners. If you make such a survey you will find that these unemployed men, some nearly 10,000 of them, are of an average age considerably less than the average age of our group. I haven't got the exact figures but I believe that the unemployed group on relief now is about 41 years of age, whereas the average age of our whole group is approaching 48. Now, there is something there which must be significant. Why is it that there are so many of these men unemployed; and must it not be that they never had a chance. Now, all these things trace back to war service. I do not know whether we can hope to devise, or whether we can devise any means whereby that responsibility can be shifted as a whole to the federal government; but I do suggest that if you find, or if the commission find, that these facts are justified that every avenue possible should be explored to determine what measure of responsibility is ours and how that responsibility can best be discharged.

Now, in the first place comes an examination of existing facilities. For many years we have had a system of pensioners' relief which started as a very temporary measure some thirteen years ago. In the course of time it has grown into a very large expenditure maintaining a great many men. This is a scheme which may be said to have grown, and perhaps without very much of a scientific basis; but it is there and I am afraid that it is something which cannot readily be eradicated. I think it would be very informative if the committee took opportunity to examine some of the administrators and get some information and light on the economic situation in regard to these men. It will be found that many of them have been there for years and that they have never done any real work. That, of course, constitutes a very serious economic problem. I think the tragedy of these cases lies in the way in which they are being maintained. After all, what is the use of maintenance if there is no real reason for existence. And that ties up with what I shall have to say later on as to what we may be able to do. That scheme as it operates at the present time, and as I said yesterday, operates on the basis that the government will contribute the same amount as the municipality in which the man resides, and in cases where the municipal rate is very low the government may augment the scale of relief to a higher figure; and that is being done, but there are all kinds and degrees; and it is a strange fact that notwithstanding that a man prefers that form of assistance because it is something he feels he has earned as a matter of right and to get that he does not have to line up with aliens, perhaps even with one who was formerly his enemy to get the form of assistance generally extended to those who are not pensioners. The difficulties that have existed in that respect are a matter of adjustment for the commission. The municipal system has been the cause of a great deal of the trouble that has arisen in these cases, and I do not think our municipalities have in all cases played fair. They have said, these people are the wards of the government let the government look after them. Consequently they are not able to get medical assistance for their families; or in cases where they have got it this form of assistance has only been secured after a long struggle. The securing of adequate clothing has been another great difficulty, and men have had difficulty in maintaining their dependent children who have passed pensionable age. You understand, of course, that the government is only responsible for these children up to a certain age. When they have passed that age the man has nevertheless to maintain these almost

adult children without any assistance from the municipality. I suggest that that is one of the great difficulties of the present scheme, and that possibly it might be necessary to apply some very great pressure, and I say this quite frankly, to get the municipalities to co-operate in changing this condition. We shall be extremely grateful if this can be done.<sup>a</sup> However, there is that situation in which we have been able to iron out a good many of the difficulties.

There is one outstanding matter in connection with these small pensions and that relates to exemption of a portion of the pension so as to give them a little leeway. The recommendation of the Commission was that 5 per cent of the pension should be exempt. That has not been implemented, and possibly there is a good reason for it; but I wish to draw your attention to the fact that that is a matter with respect to which they feel very keenly; particularly having a knowledge of the fact that it has always been the policy of the British government under similar circumstances to grant some substantial exemption before making any allowance. I simply leave that with your committee for consideration.

Now then, that is one of the grounds we have of attacking this great problem of unemployment. We have to consider the anomaly of a man with a five per cent pension who was injured in Canada along side of that of a man who served for four and a half years—front line service—in France who is compelled to draw his relief from a municipal source. That is the situation that exists in so far as relief is concerned.

Then we have in addition to that the War Veterans' Allowance Act. Let me make it clear that I do not regard the War Veterans' Allowance Act as a relief measure. It was never so intended, and I would certainly be the last to desire to utilize it for that purpose. The War Veterans' Allowance Act was a well considered measure. It was based upon a very sound principle. In the original bill brought down, bill 19, there was a very extensive preamble which definitely set out the reasons why it was enacted. For some reason or other that preamble was eliminated from the bill and we have now to speak from recollection; but that recollection is that the War Veterans' Allowance Act was devised because it was realized that the stress and strain of modern warfare, and the exposure to which these men were subjected and the trials they had to go through necessarily tended to bring about premature aging and perhaps premature break-up of the physical condition. It recommended that the government should provide for war veterans who found themselves in that class. At that time there was no intention of introducing any relief feature. It was simply intended to give to the man who was handicapped in industry at that time a stake in life. A fundamental principle in the Act was that he should be encouraged to raise the standard of living by utilizing what opportunity he had to build up his income. He was assured a bare living, but he was encouraged to utilize his strength to do what he could to amplify his income. That was there in principle in 1929 when conditions were such that we could reasonably hope that at times these very seriously handicapped men would be able to do something to augment their incomes. Conditions have changed and now it is not so easy for them to find employment of the character they could secure. However, that is the fundamental principle of the Act and I for one would be very very loath and very reluctant to encourage any departure from that fundamental principle. It was a very sound piece of legislation. However, as I said, conditions have changed. You heard yesterday the suggestion of an arbitrary reduction of the age limit to 55 or 50 years. That matter has been fully discussed and I do not intend to go over the ground again; except to say this, that the point for you to consider is whether having regard to the conditions in 1929 or 1930 and the conditions of 1936 there is any reason to indicate that 55 is a more proper age



for retiring from the labour market a man who has prematurely aged than was 60 in 1930. There is what you have to consider—50 or 55—what is the proper age to-day as compared with conditions then.

But then there is another aspect to the case: the Act also provides for the care of men who are permanently incapacitated from labour. That was a fundamental feature of the Act and still is. But you realize that at that time, in 1930, it was only intended to remove from the labour market men who were so physically disabled that it was quite improbable that they could ever be profitably employed. Now, again, conditions have changed and the opportunity for sheltered employment is so restricted to-day that it is almost impossible to find a place for a man who is rather severely handicapped while not totally incapacitated. You will understand that to-day the permanent unemployability is based upon a man's medical history. A medical man must say that this man cannot work, that he is 100 per cent disabled and precluded from employment. Now, that is all right; but if a man from the medical standpoint is capable of use in sheltered employment he cannot be certified as permanently unemployable from the medical standpoint. Consequently you have the situation of a man who is in such condition that it is absolutely impossible for him to find employment in the class of work he can do, but he is still employable under the medical provisions of the Act. That situation has given us some concern and we have wondered whether it would not be possible as a temporary measure and without infringing the provisions of the Act to extend that so as to give some elasticity to the decisions of the committee, and that way enable the impracticability of employment for a man of that type to be established. In other words, we have many cases such as this: suppose a man is in the northern part of this country where the principle occupations are lumbering and mining; where there are no manufacturing plants available, no sheltered employment. He has perhaps 25 per cent fitness. He could do a job if he came to Toronto and found a place where he could be utilized. The question is, are you to say that because he is capable of permanent employment at some place hundreds of miles away there is a job he could do if he could get the job to do—which we know he could not get. We look for practical means in the consideration of the discharge of our responsibilities in connection with this type of case. We believe the one which has been suggested to you, that some elasticity might be allowed, might meet the situation. The bill before you does make some provision in that way; but that bill perhaps does not go as far as we would like, and after I have concluded with my preliminary statement perhaps I might make a suggestion in regard to how it might be altered. But, there is the opportunity.

Now, you have here the existing machinery which in many instances provides the opportunity for removing a good many men who are otherwise going to be on relief; placing them in a condition where they feel they are being honourably maintained and where they will have some incentive to try to re-establish themselves with a degree of permanence and enjoy a more secure future. If at any time employment can be found within their capacity, then of course they must accept it. But I do think it might have the effect of taking from our great cities many who are barely existing, who are barely able to eke out an existence, and establishing them in more comfortable places. In other words, it affords an opportunity to establish them in more comfortable surroundings at a much less cost to the country. At first the cost of the dominion government might be greater, but in the long run the expense involved for the country would be very much less. That is a matter for your consideration.

I have outlined the problem. It all goes back to the time when the War Veterans' Allowance Act came up, that of course leads into the question of relief, and I am suggesting to you that that is something to which we must give very serious consideration. It is not a matter of ordinary citizens. These are men

who have suffered and who by reason of their sufferings are physically impaired. Then, as was suggested yesterday, there comes up the question of relief, whether it is only a transitory phase. We hope so. The point I am trying to make is that no matter what happens relief must be considered as permanent for a very large number of these men, unless we can do something about it. And I suggest that every effort should be made to couple with relief some opportunity of restoring their self-respect and putting them back to work. Now, of course, I know that is a very big matter; but I do think no avenue should be left unexplored to see if it can't be done; otherwise, you will simply perpetuate this horrible tragedy. When we speak of relief we think generally in terms of monetary expenditure; and we have reason to think so because relief appropriations have certainly made a tremendous drain upon the resources of this country, and if continued this drain is likely to be even greater. There is, however, another aspect to it, the moral aspect. That is why I would like you to hear from administrative officers to find out how this relief has an essential moral aspect which affects not only the people concerned but their children as well. Now, I suggest that while we may accept the obligation of doing what we can to tide them over this difficult period we should now, before it is too late and before the opportunity is passed forever, see if we could not mobilize the resources of this nation in order that we may be able to give them something to do within their capacity. Most want to work. We know that some of them have been on relief so long that they won't work; but there are a great many decent fellows who only require a helping hand to get them work, and there is no active agency for that purpose. That is one matter that can be done by this new agency. I can see no possible chance of a government agency being applied which would make it possible to serve that purpose. I think people have got to co-operate in order to do this, by working through veterans' organizations, by working through civilian organizations and otherwise and helping the government in that way to do something that will be worth while. Let me make it quite clear that no matter what we do we have got to make some gesture first to show that the present condition so far as it is humanly possible to do so is going to be relieved. In other words, by maintaining on as adequate a basis as we can a service that will indicate to them that we are trying to play fair. If you proceed to develop the agencies I have suggested without giving some temporary measure of relief you are simply going to have the statement made, this is another "stall;" they are going to say, we asked for bread and you gave us a stone. That is why I stress the fact that it is necessary in order to restore confidence that something should be done to indicate that we have some appreciation of their difficulties; and that being done let us devote ourselves to seeing how we can pull them out of the morass of unemployment.

The first consideration is to restore confidence. When I speak of that I am asking you gentlemen this: to remember as responsible legislators of this country how very very loyal these men have been under very adverse circumstances. One of the outstanding features of this great period of depression has been the fact that the returned man generally has stood loyally by his country.

Some Hon. MEMBERS: Hear, hear.

General Ross: He grouses, of course; but you have never found him otherwise, except in a very few cases, otherwise than standing by supporting law and order. Because, when you consider how they have suffered, and having regard to the claims which they have upon the country by reason of service, that is something we cannot forget. Let us see what we can do toward meeting their present condition.

Now, in reference to the next page of these recommendations, which have to do with bill 28, the establishing of a commission. What I said to you before I repeat with all earnestness, knowing the problem as I do; it is quite hopeless to set up that last hope unless it is made practical. There will be many who

will say that it will not work. I am not sure it will. I do say this, however, having for years made a study of the problem in different parts of the world I believe it is the only possible way; outside, of course, of a government scheme which would involve a huge expenditure of money, and which could not be carried on forever. I believe it is the only way, that we must start and do it. And I do believe that if it is approached in the right spirit it may work. It looks like altruistic legislation, and it is; and it will not work unless its personnel are men who are sold with the idea of a national service, and with the idea of a national problem to be solved; and it will not be solved unless these men are able to secure the support of veterans' organizations all over Canada, and as well the support of public bodies and public spirited citizens. If they secure this it seems to me that it would be possible to accomplish something at very small expense, or even at no expense at all. It is possible to develop here and there schemes to fit each locality which will take a certain number of these men out of slums and put them in places where they can be self-supporting and regain a measure of self-respect. That is my confident opinion, that it can be carried to a successful conclusion. I have studied what has taken place elsewhere. I had such an opportunity in my experience in Great Britain. There, of course, they have the background of a very extensive scheme of unemployment insurance coupled with a scheme of employment assistance where insurance was not available. That, of course, takes care of their material need. They have been impressed there, as we have been here by the deterioration of the morale of these men who are continuously kept in that way, and by the deterioration of their families, and they have devoted themselves to endeavouring to find employment for these men. In other words, they are quite satisfied that simply keeping them is not enough, they are endeavouring to find them employment. England and Scotland, of course, are very compact countries having a very dense population, and our organization there has been able to do a tremendous amount of good by reason of those conditions. They have been placing annually from 38,000 to 40,000 men in permanent employment and taking them off the dole. That is a wonderful work, but I suggest to you that it is impossible in Canada, because our country is so large, and there are so few opportunities for sheltered employment, we are much more limited in that respect than they are in Great Britain. No organization such as ours could possibly hope to handle that problem singlehanded, even with governmental assistance. Therefore, I welcome the suggestion of the minister that we should endeavour to mobilize the forces of the country to see what we can do to develop schemes that are within the capacity of the country for the purpose of dealing with these matters. Let me reiterate what I said before, that the success of that scheme depends upon the personnel, and it depends also upon its being launched under proper auspices so that some of the outstanding grievances can be eradicated or remedied as an indication of good faith. Now, that is the situation in regard to unemployment as I have seen it. I could develop it at greater length, but I do not think I could express it better than I have. I am asking you, therefore, to give consideration to the immediate problem of relief as extended to pensioners to see what can be done to improve their conditions. I am asking you to give attention to the representations made to you in regard to reduction in the war veteran's allowance age, if that can be done within the principle of the act, and I think it can. I ask you also to give consideration to the extension of the general definition of the words "permanently unemployable" in order that we might take care of a greater number. Then, I would like to discuss with you the unemployment bill; but before I go into the details I will ask if there are any questions.

*By Mr. Mutch:*

Q. You were going to suggest a change, were you?—A. Yes.

[General Alex. Ross.]



*By Mr. Malcolm McLean:*

Q. Before we leave this part I would like to ask General Ross what he thinks of the case of men not now eligible under the Veterans' Allowance Act, men who served in Canada or England for three or four years, probably being held there through no fault of their own?—A. I cannot see how you can bring them under the act without impairing the fundamental principles of the act. I told the committee yesterday that I certainly appreciate the case of these men, but I think that they would have to be cared for in some special manner without breaking down the whole principle of the act and making it simply a pensions service act. Now, the situation is this as I see it: we got that legislation on the basis of the stress and strain of modern warfare which burned out men. The committee in its discretion extended it to men who received pension with respect to service in England and Canada. Now, you spoke of meritorious cases yesterday. There were, of course, meritorious cases in England; but if you start there where are you going to draw the line? We do know that very large numbers in England suffered no hardship; they were probably better off in point of rations than the average civilian population. In my experience fortunately I did not have much opportunity of serving in England, but from my contact with many of the troops in England I would judge that they were better fed than most of the civilians. Consequently, I do not see how you are going to stretch it over without impairing the principle. I am not turning them down; I certainly think they should be considered; but I do not think they come under the War Veterans' Allowance Act.

*By the Chairman:*

Q. How can they be considered?—A. I do not know. Sir. I have not thought of that.

*By Mr. Malcolm McLean:*

Q. Many men are turning up around the age sixty, perhaps less, perhaps more, who were kept in England for three or four years. They were taken into the army as fit men, and it certainly was no fault of theirs that they should have been held for that length of time in England?—A. As a reward for their services you could arrange with the government to give them ten year's bonus in age, as a recognition of their services. That is one way it could be done without bringing in the principle of permanently unemployable which could not possibly be directed to service.

Q. That may happen eventually anyway?—A. I do not know about that, but that is one way.

*By the Chairman:*

Q. General, are you going to make any concrete suggestions as to what you think we should do for non-pensioners who are unemployable?—A. Mr. Minister, my view on that is this that, after all, this parliament has the control of the finances of the country and knows what the country can do and what your facilities are, and, therefore, you are really in a better position to make suggestions than I am. I can make suggestions but, after all, I have really no responsibility; I really could not say how it could be worked out. The Hyndman report suggested that in cases where the rate of relief was less than the municipal rate the government might augment the allowance of front line men up to the point where they were receiving a maximum departmental relief. That was one suggestion. It would probably cost a good deal of money and would be difficult to administer. That is the only concrete suggestion I have heard. As I say, I do not feel qualified to deal with a matter like that. I am not an expert on these things, and I have no expert advice on the subject. I have endeavoured to illustrate the problem hoping that you might be able with the facilities at your disposal to find some way of dealing with it.

Q. On the other hand, we have had suggestions which, in effect, mean that a large number of these unemployable non-pensioners should be put on to what might amount to a dole of \$20 a month under the War Veterans' Allowance Act?—A. No; it is not a compulsory matter.

Q. They are unemployable industrially?—A. They cannot find a job for them.

Q. And give them \$20 a month?—A. By reason of their physical disability. It is not the maximum, but an allowance for physical disability or probably lack of training or probably the place where they live because no place can be found for them to fit into the industrial field and nobody is going to employ them.

*By the Chairman:*

Q. Don't you think there would be quite a lot of criticism throughout the country if we said to all pensioners on relief: you are going to get \$40 a month and not another nickel?—A. They do not have to take it.

Q. Suppose we said: we will no longer give relief, but we will put them on war veterans' allowance?—A. We do not ask for that.

Q. What would happen?—A. You would have a row.

Mr. Mutch: It is to be voluntary.

General Ross: I am making no suggestion that we should put all these pensioners now on relief on war veterans allowance because many of them do not qualify. The committee should have more discretion than they have at present to pick out deserving cases of men who are, to all intents and purposes, just as much unemployable as the man who has lost both his legs, because there is no place where he will fit. Get him into a place where he can be happy and comfortable, and let him do something for himself.

*By the Chairman:*

Q. That man would be getting a pension for service only and not for disability?—A. Yes, disability. His disability is such—

Q. It is not due to war service?—A. Not directly. A permanently unemployable man under the War Veterans' Allowance Act has a disability if he loses a leg when run over by a car and he can get the allowance; but many of these cases are men who through disease have reached a condition where nobody will employ them in any vocation which is at all available. There must be something which takes them out of the class of the employed and puts them into the unemployable. Those men are, therefore, unemployable, and how can they keep themselves decently? They are going to be a charge for life because we cannot find a place to put them.

Q. Your suggestion is that they should be a charge on the Federal government under the War Veterans' Allowance?—A. I think it is the most decent way of eliminating that class in the community. They are going to remain on municipal relief and if conditions arose where municipal relief passed away these men are going to be in all kinds of trouble; they are going to be in a very unfortunate position if times change.

Q. Would you take them at any age?—A. I am leaving that to the committee.

Q. I am asking for your suggestion?—A. I think they should be—there should be very little restriction on age because, after all, age is not the controlling factor; the controlling factor is that the men served in the front line. They did good service and they are now in such physical condition that they cannot be absorbed into any phase of our economic life. That is the real situation.

[General Alex. Ross.]

Q. You say there are 40,000 returned soldiers now unemployed; how many of those would be unemployable?—A. According to our figures 20,000 of those men can be absorbed into industrial life if industry returns; the other 20,000, we figure, will be difficult but not all of them will come under the War Veterans' Allowance.

Q. How many would there be?—A. I cannot give you an answer to that, but the war veterans' allowance committee could give you a good picture of the number that would be affected by this extension.

Q. Would you say there would be 10,000?—A. No, I would not say 10,000. I do not think we would go that far.

*By Sir Eugène Fiset:*

Q. At the present time the War Veterans' Allowance is paid on medical evidence?—A. Yes, sir.

Q. For complete disability?—A. Yes, sir.

Q. If there was a certain disability you still will have a certain amount of legal evidence to prove that the man is disabled at least partially and cannot possibly be absorbed?—A. Medical evidence will still be fundamental. That is to say, the doctor will have to appraise his physical condition.

Q. What I want to get at is this: in accordance with the bill as it is at the present time would you suggest what word should be eliminated in order to give these men a chance to be considered on medical evidence as special cases, though they are not permanently disabled?—A. I have, sir, a memorandum here, although I am not proud of the draftsmanship of it. If you will refer to that memorandum—

*By Mr. Mutch:*

Q. Is this an amendment to the act?—A. It is an amendment to section 4 of bill 27. The minister has offered an amendment which does enlarge the scope of the act. I am suggesting that, perhaps, it might go a little farther and, for that purpose, I will leave this idea with you. Now, in bill 27, sections 3 and 4, this provision is added: "Provided, however, that the board may, in its discretion in any specially meritorious case, classify as permanently unemployable, any veteran who has attained the age of fifty-five years, and is so incapacitated by reason of permanent disabilities, pre-ageing and general unfitness, as to be, in the opinion of the board, incapable of maintaining himself."

Now, the first difficulty is with the words "specially meritorious". It is difficult to define those words. It might very well be that they will be construed to mean that the only man who could be eligible is a man who distinguished himself by meritorious service, and we think that should be changed. As an alternative we are suggesting—I am not proud of the draftsmanship and I am not tied to the wording, but it does express what I am trying to get home to you in a few words: "Provided, however, that the board may in its discretion in any case where the applicant served in a theatre of actual war classify as permanently unemployable any veteran who is so incapacitated by reason of physical and/or mental disabilities, premature ageing and/or general unfitness, as to be in the opinion of the board not capable of any permanent employment in any class of employment then available in the area in which the applicant resides."

That is what I am working at; and whether we have expressed it properly or have gone too far is for the committee to say. However, we feel that that would meet the situation and give some hope to those men who are at the present time practically regarded as an economic liability unless something is done to help them out.



*By Mr. Mulock:*

Q. What do you mean by "area"?—A. That is a difficulty that we have in this act, that a man who is in an area, has his home in that area, is incapable of any employment available in that area.

Q. How big is the area?—A. That is a matter we have to define. As I say, the draftsmanship leaves much to be desired; but probably we can ultimately work out something better. Take a man in a small village in one of the prairie provinces. He has his own home. The only form of labour he can hope to get is work as a farm labourer, and he has a 60 per cent physical disability; therefore, he cannot get that kind of work. He has to live on relief which may be as little as \$2 a week for the rest of his life. If you could give him a war veterans' allowance of \$15—you do not have to give him \$40—that man could maintain himself in comfort and would cease to be a public charge. There is no employment in that area for which he can hope to be accepted. The only alternative is to move him in to the nearest large city, and if he cannot get a job he goes on relief. The point I am getting at in asking to have the area consideration taken in is that it would not drive these people into the larger cities to prove that there is no job for them.

*By the Chairman:*

Q. Take the case of a man who has always been a lumberjack and he is a good lumberjack yet. Say he lives in Rimouski and say for instance, that Price Brothers close down their mill at that point and there is no work for him to do. There is no permanent employment for that lumberjack in Rimouski, but I do not see why he should become a permanent charge on the treasury?—A. Not if he is able to move some place else and work as a lumberjack.

Q. I say that there is no permanent employment in that area?—A. Within his capacity.

Q. He is a lumberjack and he has done that work, and he has been employed as a lumberjack, but the mill closes down at that point and he is not carrying on any operation; it is not a permanent job, but that is the work he has always done?—A. We agree in principle; it is a difference in wording. The lumberjack is exactly what I have in mind. Suppose the lumberjack is now fifty-five years of age and is pretty well crooked up and could not get a place as a lumberjack, the only thing to do would be to bring him to town and make him a janitor, if he could do that. But suppose you cannot find him a job as a janitor? That is the situation. What are you going to do with him? You understand what I mean. We both mean the same thing. I do not want this lumberjack to be a charge on the public if he is fit.

Q. We agree on the principle of the amendment suggested in Bill 27; this is only a question of phraseology, is that it?—A. Phraseology.

*By Mr. MacNeil:*

Q. General Ross insists on several factors being recognized as a basis for unemployability. First of all, there is service in the line; secondly, a certain degree, at least, of physical incapacity?—A. A considerable degree.

Q. And thirdly, lack of opportunity to relate that man to a correct placement?—A. Those are the three factors.

Mr. Mutch: It must be perfectly obvious that a man who is fifty years of age and knows how to do only one thing cannot begin to compete in an overcrowded occupation in some other class.

*By Mr. Macdonald:*

Q. I see in the second line the words, "served in a theatre of actual war." As I understand the War Veterans' Allowance Act, they have to serve in an actual theatre of war?—A. Yes. I put that in in order to indicate I am not

[General Alex. Ross.]

trying to throw the thing wide open. The act makes provision for men who have merely served in Canada and England. I was willing to limit it to the man who had seen service in the front line.

*By Mr. Malcolm McLean:*

Q. When you speak of 40,000, how are your figures arrived at?—A. We have no real figures. We have made a survey in Canada which did not include several of the larger congested areas such as Montreal and Vancouver where there is a lot of unemployment, and we had 10,000 unemployed men with our own little survey, so we are guessing at it. We have an actual record on figures which are available here covering 10,000 men who were referred to us for investigation and whom we have classified. We think we are being at least conservative when we say that there are at least 40,000.

The CHAIRMAN: I have been making that statement publicly on several occasions and I took it from the statement made by the officers of the legion. I am in hopes that the Veteran's Assistance Commission will classify men and give us some information as to the number who are unemployable. I was told by a man who has undertaken large public undertakings, a contractor, that if he had jobs for a thousand men to-morrow and wanted to employ only ex-soldiers he could not find them because he would not know where to go to look for them. If the commission would only classify them and give us some idea of where they are to be located and what their occupations are, that would be of advantage.

Mr. MALCOLM McLEAN: I wonder if the 40,000 includes men casually or partly employed in rural and urban centres?

The CHAIRMAN: I do not think we have any definite figures on that.

General ROSS: Our survey was made two years ago.

Mr. BOWLER: It is filed as an exhibit with the Hyndman commission.

*By Mr. Malcolm McLean:*

Q. Are those 40,000 physically handicapped?—A. 50 per cent of those in our survey were handicapped. They would not all come under the definition as being physically handicapped.

Q. Have they all some degree of disability?—A. It is only estimated. In some cases they have had medical examinations. I am afraid that our records are exhausted now. If you read the record of the evidence of the Hyndman commission you will find it there. The survey for Saskatoon was carried out by three or four medical examiners, and the figures gave a pretty fair picture of the employability of these men after medical examination.

*By Sir Eugène Fiset:*

Q. Suppose you strike out the words used in your proposed amendment, "area in which the applicant resides" and stop at the words "any class of employment," what effect would that have on your amendment?—A. It would not impair my position at all, speaking casually.

The CHAIRMAN: Yes, it would. I think it would.

General ROSS: It would widen it.

Sir EUGÈNE Fiset: No. It places more discretion upon the board, and the discretion is on the board just the same.

General ROSS: Yes, that is right, it would because there is the situation of the lumberjack who is 60 per cent physically unfit. He cannot carry on as a lumberjack, but we might find him a job as a caretaker in Montreal. Until he is there he is unemployable.

*By Sir Eugène Fiset:*

Q. You are placing the responsibility of placing these men on the board itself, and you are, at the same time, restricting the powers of the board by specifying one particular area where these men can be employed?—A. No. I am rather trying to relieve the board from an unpleasant difficulty which they experience at the present time. I think if you get Mr. Woods before you as a witness he will tell you that very often these men have increased his troubles in connection with the board, and he feels they ought to be included in the provisions of the act; but he cannot do so because they are capable of performing some class of employment somewhere, and that employment is not available where they live.

*By Mr. Tucker:*

Q. If you would say, "reasonably available" and stop there that would cover the point raised by the minister: "In any class of employment reasonably available"?—A. In the recess I shall endeavour to improve on this; but we have given you a formula which indicates what we have in mind. I have been rather rushed since I have come here and I have not had time to concentrate upon this matter.

*By Mr. Mutch:*

Q. In your figure of 10,000 who have been considered as unemployable do you include a man who, normally, would be occupied in a trade but is now reduced by circumstances to run an elevator? For instance, consider the case of a man who is a first-class carpenter and is now a janitor; you do not class him as unemployable, do you?—A. No. In our survey each man was graded as to his ability to resume his trade, and if his trade was available to him he is classified as fully employable.

Q. As employable. I received a number of letters from men who say that because they are eking out an existence in some left handed job that does not indicate what they would normally earn in their trade. They consider themselves as not being provided for?—A. I do not know. I would not say that. I do not think that is right. My idea is that any man if he cannot get work at his own job has got to work at some other job until he can get into his proper place. I would not class him as unemployed or unemployable.

*By Sir Eugène Fiset:*

Q. With regard to this proposal, if you take clause 4 of the bill and strike out from that clause in both places the words "permanently" and "permanent" that will meet exactly the idea that you propose here in this amendment. It would be broader, would it not?—A. Yes, sir.

Q. I do not think it makes a bit of difference as far as the minister's bill is concerned. Then you have: ".....as unemployable, and veteran who has attained the age of fifty-five years and is so incapacitated by reason of disabilities, pre-ageing and general unfitness....." the word "permanent" is the word that clogs that bill?—A. Yes.

Q. It is the word really that prevents any medical evidence being submitted to the board that will enable any poor fellow who is not permanently disabled to come under this act?—A. Yes, sir.

Q. It seems to me that by striking out those two words you will meet the wishes of the legion?—A. Quite likely, sir. I think you are right. In draftsmanship you have to confer several times before you agree.

Q. The word "permanently" is the whole trouble. You want to give these men that are not permanently incapacitated at present a chance. You do not give the board a chance to deal with the cases that on medical evidence are not absolutely and completely incapacitated but cannot possibly become re-employed. I think it will meet the wishes of the legion.

[General Alex. Ross.]



Mr. TUCKER: I do not think that would cover it, because a man might be quite capable of getting a job if there was lots of employment in the country, even though he was more or less incapacitated. Under present conditions he cannot get a job. The amendment suggested by the general introduces the element of conditions where a man who is not absolutely 100 per cent fit cannot get a job where, otherwise, he might if conditions were better. I think the suggestion made by Sir Eugène Fiset leaves out that feature of it altogether.

Sir EUGÈNE FISSET: So does the amendment proposed by the legion.

Mr. TUCKER: No. If you say "then available" a man on account of general unfitness is not capable of employment in any class of employment which is reasonably available.

*By Mr. Reid:*

Q. Might I ask General Ross this question: in this suggested amendment you would take care of those under sixty years of age, no matter what the age of the veteran was?—A. Yes. Providing he had those qualifications. That is to say provided he is more or less a permanent charge upon somebody.

*By Mr. Mutch:*

Q. Then, it must be established that he is a permanent charge, that he is permanently unemployable; and in the second place you would make it practically mandatory within the Act for them to classify a man as permanently unemployable who is presently unemployed?—A. I used the word "permanently" advisedly. However, that will be dealt with by Mr. Bowler later on. I have a number of minor amendments to suggest and I haven't the time to do that to-day. Mr. Bowler will take them up at the next meeting on my behalf. I have two other witnesses here to-day whom I would like to get on.

If I have made my case clear to the committee, I would like to get on. I hope to be back here again later, but in the meantime Mr. Bowler will finish what I have left undone.

I am submitting several observations in regard to Bill 28, the Veterans' Assistance Commission. To be brief, I would like a definition of "veteran" enlarged. I point out in the first place that there are many thousands of men domiciled in Canada who served in British and allied forces. I think we should not overlook them, particularly as there is no monetary payment involved in extending to them the benefits of this commission on employment. I think it should apply as well to Imperial veterans, if for no other reason than because it constitutes a fraternal gesture if we ask the commission to help them out.

*By the Chairman:*

Q. In other words, what you suggest is that we take the definition of "veteran," or "ex-service" man that is to be found in the relief regulations?—A. I think so, yes. In other words, we are all one family, and as long as we are not spending money in doing it I think we should treat them all alike.

Q. You would bring in any people now covered by the relief regulations, more or less.—A. Yes.

Q. Do you want to take in Imperials who came here since 1924?—A. Later perhaps, the peak of the immigration period.

Q. The Hyndman report wanted to take them in up to 1935. I think there might be some objection to that?—A. What we suggest involves no direct expenditure, we would just be treating all members of the family alike. After all, it is only a matter of giving a helping hand to them.

In section 3 provision is made for the payment of compensation. That may not be necessary. I do hope we will be able to find men who are able to give their time to that commission, who will appeal to the country as men who are making a worth while contribution. This commission is not going to be a body

of civil servants. We do not want to make jobs out of it if we can help it. There will have to be some staff, and I suppose the necessary staff should be supplied by the department through the Civil Service Commission. It seems to me that specialized officers will probably be required, and if you are going to work on a voluntary basis I suggest that these specialized officers—one or two field officers will be required—should be appointed by the government on the recommendation of the commission. If you ask these men to give of their time on a voluntary basis, there is bound to be a lot of detail work which will have to be done and I think they should be able to pick their own men.

Then, section 6: I suggest that it should be clearly set out—we do not want this to be simply an investigating commission; I think that they should have the power if a project is submitted which appears to offer an opportunity in the way of absorbing men in such a way that they can maintain themselves, I think they should have the power of submitting such a project to the government and that there should be an appropriation available to start such a scheme.

A necessary part of the scheme I think is that the central commission, as I visualize it, is intended to be a co-ordinating body. If you are going to get anywhere with this scheme you have got to mobilize veterans' organizations, social organizations and public spirited men and women in every city in Canada in which distress is prevalent, with the central body the only organizing and directing force. Therefore, I think power should be taken in the bill to set up such committees with some authority, and perhaps also with some provision as to personnel.

Q. Do you not get that under sub-section 8: "The commission shall, subject to the approval of the minister, co-operate with any commission, department, government agency, association, group or organization referred to in sub-section 1 of this section."—A. I wanted power to the commission to set up its own sub-committees to co-operate as I suggest; to have their local body to co-ordinate the efforts of all agencies there.

I have made my presentation as best I can. In the experience of work over a period of years I think I have been able to give you some idea of what we have been trying to do. I want to relieve your mind of any idea that we are trying to make a raid on the treasury. We are trying only to attack this problem in a scientific way, and I hope that I have given you the idea that we are prepared to co-operate in every way possible. We have been a long time getting to the point where we can discuss it as an actual problem; and I hope you will appreciate that we are sincerely endeavouring to co-operate in the solution of a national problem. I hope our efforts will not have failed, and that we will be able actually to work out some system whereby we will be able to bring hope and comfort to men who have given good service but who face a rather hopeless outlook and a rather hopeless future.

It is now my pleasure to introduce to you Captain P. J. Philpott, of Saskatoon, who has come here to give you some idea of conditions as they exist in the prairie provinces.

Mr. BETTS: Just before the General leaves I would like to move on behalf of this committee a very hearty vote of thanks to him; because, to my way of thinking, General Ross is doing a definite service to the country, one which is just as great as if not greater than the service he gave during the war. The work he has done on behalf of the returned men since the war entitles him to special distinction.

Captain P. J. PHILPOTT, M.C., D.C.M., representing Saskatchewan Command, Canadian Legion, B.E.S.L., called.

WITNESS: Mr. Chairman and gentlemen, coming as I do after the dominion president of the Canadian Legion, General Ross, and the other witnesses you have heard there is not a great deal that I can say in so far as the general employ-  
[Captain P. J. Philpott.]

ment situation is concerned or the plan that we believe will help to solve the problem. However, I would like to take a few minutes of your time to point out to you some of the conditions with which we are faced, particularly in Saskatchewan.

I would like to say in beginning, sir, that the surveys that have been referred to by the dominion president of the Legion as having been made were made in the city of Saskatoon, where I live. Some few years ago, and just to show you that these unemployed men were willing to work and were not looking for relief, over 300 of them in the city of Saskatoon alone presented themselves voluntarily for registration, and for medical and industrial examination. A very comprehensive report was taken from that study to the dominion convention of the Legion at Ottawa two years ago. Through that effort, and with the determination of the dominion president, these surveys were extended throughout the dominion. The result of that was an index of figures which was filed with the Hyndman commission.

The condition of unemployment in Saskatchewan, while attributable in some degree to the general depression as experienced all over the country, has been doubly affected by conditions peculiar to the province of Saskatchewan:—

(a) Prolonged drought and crop failures over a period of several years in a decidedly agricultural province.

(b) The low price of primary agricultural products, resulting in a loss on farming operations even in districts where some crop has been produced, or diversified farming followed.

(c) The province has no real industry or manufacturing for purposes other than a supply of domestic needs; no market but the farming population, whose purchasing power has been restricted for 5 or 6 years.

(d) In the urban centres of Saskatchewan a large percentage of the unemployed follow as occupation the building trades, with secondary ability as agriculturists. Building activities are practically entirely suspended owing to the general condition and no opportunity offers under present conditions for agricultural placement of returned soldiers.

Unemployment among ex-service men has increased during the past five years to a high peak, and while improvement has recently taken place in the general unemployment figures, there is no record or indication of any improvement in the figures of ex-service men unemployed.

*By Mr. Macdonald:*

Q. Might I ask the witness if he has any figures as to the number of ex-service men unemployed in Saskatchewan to-day?—A. I am coming to that just now. I was not able to produce the figures with regard to the whole province. I think you will appreciate that it would be very difficult. We still do not know how many men are out in the rural municipalities. We have no idea, and we can get no reliable check on it. We have taken a cross section in one of the cities that is available for any sort of inquiry which might be made. We took the city of Saskatoon as being the middle sized city of the three largest in the province. We took that as an index. We found this: that in September of 1934, 177 ex-service men with 530 dependents were in receipt of city relief. In March, 1936, the number had increased to 202 ex-service men on city relief, with a corresponding increase in dependents. The number of small pensioners receiving unemployment relief from the Department of Pensions and National Health on January 1, 1935, was 71, while at March 1, 1936, the number was 72. This while the number of non-ex-service men receiving relief has decreased approximately 20 per cent. At Dundurn camp for single unemployed men—30 miles from Saskatoon—at the end of 1934 there were 91 ex-service men; at February 22, 1936, this had increased to 294.



I will file with you, sir, the nominal roll together with age groups, occupational groups and number of months on relief for these three—the relief department of the city of Saskatoon, the D.S.C.R. at Saskatoon and Dundurn camp.

While accurate figures are not available from day to day, it would appear that about 20 per cent of the total heads of families on relief are ex-service men, which percentage we believe to be considerably higher than the pro rata number of ex-service men to civilian men in the community.

That is a point that I want to make very sincerely. These figures will justify that, that 20 per cent of the heads of families on relief are returned soldiers. The only figures we could go by are enlistment figures and demobilization figures; but that is not a proper pro rata to the male population there at all. It indicates that the soldiers are suffering more than the non-soldier population.

*By Mr. Reid:*

Q. Do you mean there that Saskatoon is higher than the rest of the province?—A. No. Saskatoon is a pretty fair index of the whole province. We know that, but we have only taken the city of Saskatoon for comparative purposes because that is the only city I had available in which to make a survey up to date.

*By the Chairman:*

Q. You say you took the enlistment figures, that that was the only way by which you could get at it; or, was it the demobilization figures?—A. That is the only way we could get at it.

Q. Which did you take?—A. We took both. They both bore out the conviction that I have expressed, that probably the returned men on relief are greater than the pro rata number of returned men in the community as against the non-service population.

*By Mr. Malcolm McLean:*

Q. You said that Saskatoon would be an average of the province?—A. Of the urban sections. I mentioned that. I said that we took it because it was the middle sized city of the three largest cities in the province.

*By Mr. Macdonald:*

Q. I understood someone to say that there were 400,000 heads of families on relief in Canada. Will you say that 20 per cent of these are returned men?—A. I can only speak for my own province. I do not know anything about the others.

Q. I asked you that question because someone has said that there are only 40,000 returned men unemployed in Canada.—A. I think we are all up against the same problem there. I think that was mentioned by General Ross; that it should be one of the first duties of this commission to find out just what the situation is.

Our surveys and experience indicate the following reasons for these high unemployment figures among the ex-service men:—

(a) The age factor of the veterans, average 48 years, and increasing competition on the labour market of a sturdy youth.

(b) Medical examination of a cross-section indicates that but few are 75 per cent, and the majority only 50 per cent or less, fit to engage in their regular occupations.

I am sorry I have not the figures supporting this statement for you. They were filed with the Hyndman commission. They are taken from a medical examination which we had made of over 300 men; and that, of course, was

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an eye-opener to all of us. We secured the service of a dozen doctors in Saskatoon who worked evenings for a fortnight. These men were thoroughly examined. They were stripped and they went through the hands of three individual doctors who tabulated their findings. Then we had these men go before a committee of three employers of labour who judged the appearance of the men, both from the standpoint of physical appearance and the manner in which they answered certain questions, and in that way judged their suitability for work in the particular occupations involved. That is how we arrived at these figures, and I think they are fairly indicative of conditions.

*By Mr. Brooks:*

Q. You are speaking strictly of ex-service men?—A. Oh, yes.

Then, the low standard of morale and initiative resulting from an extended period on a subsistence scale only, as afforded by relief allowances, or dwindling savings.

I would like to add there that relief as calculated is based upon the minimum that is required to live, and we appreciate that when the system was started we were told that it was to be only a temporary measure, whereas it has gone on now for four or five years. I submit that the time has come, in fact the time is passed, when something should be done about that. It is not good enough to say that a head of a family should get a house for \$10 a month; and for \$2.50 a week you could get all the groceries you need for his family, that is another \$10, and that makes \$20; and then you give him \$2 a month for clothing, making \$22; that is not enough. There is a thousand and one things that a family needs over that period which are not taken into account at all. It was only after a hard struggle that we were able to get the Department of Pensions and National Health to provide clothing for the small pensioner on relief.

In the opinion of the Saskatchewan Command, Canadian Legion, planned assistance in employment re-establishment is essential for those who have the will and the ability to work and some method of removing from the competitive labour market those who have not that ability to the degree that appeals to the employers of labour.

We endorse fully the first recommendation of the Hyndman report, the Veterans' Allowance Commission, with the firm belief that, if properly constituted and directed, such a body can furnish the planned assistance required if the veteran is to be re-established in employment.

We realize that veterans cannot be "legislated into employment," but believe that legislation can be introduced to assist them into employment.

Such a commission by visiting districts and parts of Canada, learning the local conditions and studying local opportunities, can if so empowered recommend to the government the adoption of, and carry out schemes large or small to create or assist employment of ex-soldiers who are not able to be placed into ordinary industry. No one or two schemes will suit the whole country, rather the method should be to place small groups into self-supporting circumstances at every opportunity that affords.

At the same time, such a commission should set up a liaison between itself and the employers of labour to assist the more fit into ordinary work, and to ensure that during the next few years more of our men are not released from industry because of the age hazard. We have repeated instances of employers of labour adopting a policy of young men only. In these days of extreme competition and abundant youth, we must be prepared to meet that condition by keeping before employers their responsibility to men who, though forty-eight years old now, served this country in their youth to the extent that they suffered and were impaired.

Consideration might also be given to the provision of a fund to be administered by the commission. And by that we mean such cases as people who can be settled in very many ways. I had a conversation with General Ross this

morning and I told him of the case of a blacksmith in Saskatoon. We had too many blacksmiths there, and there was a man who wanted to go to a place up around Melfort where there was no blacksmith, but it would take over \$100 to get him established there. He did not have even the price of the railway ticket to assist him in getting there. We believe that perhaps a fund of \$15,000 to \$20,000 might be used to provide for cases of that kind. Of course, the commission would have a discretionary power, but they could help in a great many cases. That work has been done the last few years by the Saskatchewan Canteen Fund. Without that fund I do not know what we would have done. It has been very well managed and we have been able to call on that fund to assist such cases as the one I have mentioned. At the present time, unfortunately, it is becoming depleted because of the work they have to do; so much so that in the next year or perhaps two years at most we shall be faced with the total depletion of that fund, and we would like very much to see something else take its place.

We have no means of telling how many of these cases there are, but we do know that there are a great many of them throughout the province of Saskatchewan who are living under conditions of great uncertainty. Here is a returned man who served in the line for a long time. He writes to me that he has a family of five living in the town of Biggar, Saskatchewan. He is a "white-collar" man. He is on relief getting \$2.65 a week; and he has to go out to work on the streets for that—so many hours. I verified that with the town of Biggar. The clerk there informs me that that is what a man is getting. That is the scale of relief, \$2.65 a week for a family of five. I communicated with the department of the Saskatchewan government concerned and brought it to their attention. That is from the town of Biggar and I file it to give you some idea as to what conditions are.

*By Mr. Malcolm McLean:*

Q. Just in the interests of accuracy, you made the statement that you were referring to rural municipalities, and then you gave us a case from the town of Biggar?—A. I meant, in the country. That is what I meant to say. Here is a letter from Invermay, Saskatchewan, which is very distressing. There is a family we have been trying to help. The woman writes a desperate letter and closes by saying that unless something is done for her and her children she is going to do something desperate to herself. We have been looking after that case, but it is indicative of what is happening all over the province.

I do not think there is much more I can say. I heartily support all that previous witnesses have said, particularly General Ross, in regard to pensions, and I support what has been said about the War Veterans' Allowance Act. We are very strong in Saskatchewan for the broadening of the act. We believe it will help solve our problem, although it will not solve it entirely. You will notice in the blue book the figures of the number of men under the act in the province of Saskatchewan are the lowest in Canada with the exception of New Brunswick. I do not know why that is because we certainly have kept in very close relationship with the chairman of the committee and have got along very nicely with the committee and we have endeavoured to get our cases in whenever we felt we had a case. There must be some reason for that—whether it is because the men in our province are younger than the average in other provinces, I do not know.

*By Mr. Macdonald:*

Q. They must be younger and healthier?—A. It may be that. We feel we are prepared to go the limit behind this veterans' pension commission. We feel some people may say that there is nothing we can do, but we feel that there is

[Captain P. J. Philpott.]



something we can do, and the veterans' organization will exert every effort to support the commission that may be set up and we will do our best to bring public bodies into line. I believe there is a lot we can do.

*By Mr. Malcolm McLean:*

Q. Don't you think the reason why you have a smaller percentage under the War Veterans' Allowance Act is because a larger percentage of your men are on the land, or where they have not applied, or where they are not eligible, than in some other provinces.

Mr. Mutch: Perhaps there are fewer people to ask for help.

Mr. Tucker: I brought this matter up the other day and I feel very strongly about it. I intend to ask this committee to give some consideration to it. I refer to the man who enlisted and got as far as England and no further. He was available to be sent to France if he had been ordered, but he was kept in England probably working hard there and his health became broken so that he was in the same position as some of these others who are getting this allowance under the War Veterans' Allowance Act. I submit that there should be some discretion allowed by this committee for special cases where it can be perfectly established that these men could not get to France. I would like to have the information of this witness on that point.

Witness: Mr. Chairman, I feel this way about it: we have been so long trying to get something for the men who saw service in the line that that is my first consideration, and if this committee can adjust that end of it then my personal opinion is—although this matter has not been discussed by our men officially—that the meritorious cases should be left in some way to the discretion of the War Veterans' Allowance committee; but any broadening that would tend to make it more difficult to get the younger men who saw service in the line under it I think it would be disastrous. I am quite agreeable to the committee being given some discretion in meritorious cases—but I think we will all agree that the numbers of men who have only served in England who could be considered meritorious cases for the burnt-out allowance would be very few. There may be some outstanding cases, but you will never get any law to fit every case. We have never had a pension law yet that would fit every case. I will be quite agreeable to discretion being allowed in certain cases, but any broadening of that act that would make it more difficult because of the cost to get the younger men in, would be unfortunate. We have men in the province of Saskatchewan in their early forties who are burnt out. That is why we are so keen for the broadening of the act, rather than sticking at an arbitrary age. We have no objection to the age reduction, but we want a broadening of the act to get in more men.

The Chairman: The fact of the matter is that those who saw service only in Canada and England did not have to put up with the physical hardships and inconveniences that those who saw service in France did have to put up with—experiences that would pre-age and burn them out.

*By Mr. Reid:*

Q. Would it be fair to leave it to the committee in regard to meritorious cases without giving any definite direction?—A. With the present committee I certainly say yes. We have found it very fair.

*By Mr. Macdonald:*

Q. You say there are men in the forties in Saskatchewan who are burned out, do you?—A. Yes.

Q. Under the present act they are entitled to allowance?—A. With that permanent unemployability in it is difficult to get them under it. It is very difficult to get doctors to say that a man is permanently unemployable when

that man is in his forties. In fact, he has got to be practically bed-ridden. But we did get some consideration for that condition after the Hyndman report came in and Mr. Woods' committee started to travel. We found that a great relief. That is a point that should be borne in mind, that the committee should travel; they cannot sit in Ottawa and adjudicate on cases.

The CHAIRMAN: I hope we are not going to have another bunch of travelling boards and quorums.

WITNESS: They must see the cases, sir; it makes all the difference in the world.

*By Mr. Streight (to General Ross):*

Q. General, have you had many prisoners of war coming up? The prisoners of war have no medical history sheet. Have you had many cases of prisoners of war come before you?—A. The Pensions' Commission has.

Q. It is difficult because those men have no medical history?—A. They have always been a great trouble.

Q. Is this commission going to try to help those poor fellows who were three or four years in prison and have no medical history sheet to show anyone. They are kicked all over the place?—A. It has been a very difficult problem, but it is a matter for the Pensions Commission; it is not a problem for the War Veterans' Allowance Association. It has always been a problem. I do not know how it is going to be solved. We might discuss that when we come back to pensions as we will do at the next sitting of the committee.

Q. I understand that there was reparation money which came from Germany for that purpose?—A. That was finished up some time ago.

Q. No, it is not finished up by any means. The civilian prisoners were all paid off first—eight and a half million dollars—and there was twenty million dollars left. I understand that the rest was really to go to the prisoners of war, but that was cut off?—A. There was a commissioner set up by the late government and I understood he finished his job.

Q. He did all right, but he has not finished the money?—A. That is still available to be got at.

Now, may I ask you to hear Mr. Robert Macnicol of Vancouver. He is the provincial secretary of British Columbia.

Mr. HAMILTON: Might I give a few figures which I got from Mr. Walker and which might be of interest. The total enlistment was 619,636 in the C.E.F. Of that number 193,105 saw service in Canada only, 80,000 saw service in the British Isles and Canada only, making a total of 273,105 who saw service in either Canada and the British Isles or Canada only out of the total enlistment.

ROBERT MACNICOL, called.

WITNESS: Mr. Chairman and gentlemen, we have been in a very unfortunate position. On the last two morning sessions we have taken the tail end. It has been nobody's fault, but we do not like to take the tail end of anything. However, when I came off the train yesterday morning from the garden province of Canada I was told that we had gathered together here to-day one of the best committees ever selected to consider the problems of ex-service men. Now, I do not feel like our friend here who delayed in seconding the resolution thanking General Ross until he heard what he is doing for the returned men. I am going to wait until I hear the report of this committee. However, I must be honest. I have been for seventeen years connected in very close contact with ex-service men in western Canada both as an employee of the Department of Pensions, as an honorary officer and as a paid official and I do say that during the last three years there has been a more sympathetic feeling toward all reasonable requests put forward, and I hope the requests of the legion are reasonable.

[Mr. Robert Macnicol.]

Coming from British Columbia—from the west,—we bring that western spirit of calling a spade a spade and we do not always tone down what we have to say; we believe in giving you the information as we have it without any camouflage at all.

In connection with the War Veterans' Allowance Act, may I refer briefly to what has been said. I endorse the statements already made by Canadian Legion representatives that two Dominion conventions of the organization, one in Ottawa and the other in Vancouver, B.C. last month, representing every province in Canada endorsed the proposal that the qualifying age for war veterans' allowance be reduced from sixty to fifty years. I believe that I expressed the opinion of the majority of veterans in Canada, organized and unorganized, when I asked that this committee sincerely consider making a recommendation reducing the age of qualification for war veterans' allowance by a number of years without strings of any kind at all, and in addition give due consideration to application for war veterans' allowance received from men, irrespective of age, who may qualify in accordance with the recommendation made by our Dominion president, covering bill No. 27 on amendments suggested to the War Veterans' Allowance Act.

We may point out that men who applied for war veterans' allowance are poor, distressed and hard up, and every extra dollar that is paid out to the ex-service men in the way of allowances of this kind goes back into circulation almost immediately, as the men who receive it are so hard up that they cannot possibly hoard it. It cannot be hoarded because they spend the money and in doing so they are helping us to get back to some form of prosperity which we hope will come in the near future. I do not want to confuse you at all. There may be some confusion between the amendment introduced by General Ross and a straight reduction in the age. Please keep the two things separate. We advocated in western Canada and at two Dominion conventions a straight reduction in age without strings. Whether you make that fifty-five or fifty is entirely a matter for you to decide. If you decide and it goes to fifty-five—and by all means under fifty-five, it agrees with our good friend General Ross.

*By Mr. Macdonald:*

Q. Have you any figures as to how many more would come under the scheme if the age were reduced to fifty-five?—A. It is difficult to tell in British Columbia. You would take a lot off the pension relief roll at Shaughnessey hospital at Vancouver. Roughly speaking there are 300 to 350 men between the ages of fifty-five and sixty who are drawing pension relief, and if we reduced the age to fifty we would take off that pension relief roll at Shaughnessey hospital between 550 and 600 men.

*By the Chairman:*

Q. If they wanted to go?—A. If they wanted to go. I believe they would.

*By Mr. Macdonald:*

Q. What effect would that have on expenditure?—A. As far as the effect on expenditure is concerned, I think the figures quoted in parliament during the last year are somewhat exaggerated. In regard to the cost of reducing the age under the War Veterans' Allowance Act from sixty to fifty-five or from sixty to fifty they did not have to take into account in those figures the amount of relief now being paid out to those older men.

Q. What difference would it make in the way of expenditure providing food in the hospital or under the relief act and what difference would it make to the men themselves as to their desire to move from one place to another?—A. As far as the single men are concerned, a single man in British Columbia who is in receipt, we will say, of 5 per cent pension, \$3.75 a month, gets \$15 a month from



Shaughnessey hospital, Vancouver. That is \$18.75. You would have to pay that man possibly up to \$20, making a difference of \$1.25 a month for the maximum. The War Veterans' Allowance committee does not always pay the maximum. If you calculate generally—and it is hard to check those figures—they pay one-sixth or one-seventh over all of the maximum amount that they would pay if they paid the maximum of married and single men. Those are only rough figures which are made up from various sources.

Q. These men that you spoke of on the relief roll of Shaughnessey hospital are not stationed in the hospital?—A. No. They go there and get relief and come out again.

Q. It would practically make no difference?—A. As far as the single men are concerned, no. In the case of married men it would make some difference.

To pass on we come to the amendments to the Canadian Pension Act. It is generally agreed that some attention should be given to the matter of payment of retroactive pension and we would not oppose any reasonable suggestion in this regard, providing that it is left within the discretion of the Canadian Pension Commission to adjust by retroactive payment of pension cases of hardship, etc., where it is considered that payment of this kind should be made.

With regard to receiving applications for pension for men who served in Canada and England only, we think that this is entirely a matter of government policy and one for this committee to decide in so far as recommendations may be concerned. If you decide to curtail receiving applications for pension for men who served in Canada and England only, we would suggest that they be permitted to apply for pension up to at least December 31, 1936.

In regard to pension applications for service in France we cannot agree with any proposal that would limit application for pension from men who served in France, etc., being accepted only up to January 1, 1938. We consider that all men who served in France, etc., should be entitled to make application for pension during any period of their life time.

Now, I want to raise a little objection. It is alleged to-day in Ottawa that some government departments are anticipating legislation not yet passed. That is not fair. It is not correct. I do not know whether the statement is true or not. If you reduced the tariff, what happens if some business firm gets some information and makes use of that information? You call them crooks. I maintain that no government department—I am not going to name them all—I maintain that no government department has any right to anticipate legislation on the final draft of a bill to be passed in the House of Commons. I am referring to this matter of restriction of retroactive pension.

To come to another matter regarding certain amendments to the Pension Act—I refer to the amendment of May, 1933, whereby in the case of any pensioner married after that date his wife would cease to have pension, and that also applies in the case of children born after May, 1933. I understand that there was a gentlemen's agreement that in return for some other legislation they promised to keep hand's off. I did not believe in this amendment, but there was a compromise that the legion at that time would not object to this legislation. I cannot support it as coming from western Canada. The conditions in Canada are very different from those in the old country. You will find, generally speaking, that men marry very much later in life in Canada than they did in years gone by in the old land. I think it is a direct discrimination against the men who came back and put off getting married until late in life. There was another illogical interpretation which came out of that act. We have men who up to May, 1933, were in receipt of housekeeper's allowances because the wives of those men were dead. The man drawing that allowance could not discharge his housekeeper even though she got drunk every day in the week because if he were to discharge her he could not engage a new one since the allowance is stopped. I think something should be done to alter that rather ridiculous situa-

[Mr. Robert Macnicol.]

tion in so far as the interpretation of the May, 1933, amendment to the Pension Act is concerned. There is another problem which we have in British Columbia and which we have brought up year by year and which has been passed time and time again—I remember discussing it with the Honourable Dr. King many years ago—that is free medical treatment and hospitalization for men who saw service in the great war, particularly in a theatre of war, and in previous wars. It is our opinion that free medical treatment and hospitalization should be granted for more or less acute disabilities to men who have served in the great war and previous wars, even although they are not in receipt of pension, and their disability is not recognized as due to service conditions. It is difficult to explain present regulations to these men who have fought in previous campaigns, and very often did good service as instructors in England during the great war. Again we have the men of the great war with excellent service who see all the advantages granted to a man who never left Canada or England simply because he has been lucky enough to be given the "benefit of doubt" and a 5 per cent pension. Let me illustrate: Served in Canada or England: Single man with 5 per cent pension—\$3.75 per month. If unemployed receives an additional \$15 in relief from the Department of Pensions and National Health. Falls sick from a non-pensionable disability. Is given medical treatment and retention in hospital free of charge. Another man if he has not been given the benefit of the doubt is turned down and has to go into the pauper ward of the Vancouver general hospital or some other hospital in the country. I believe the men with war service should be given some consideration for free medical treatment and hospitalization on compassionate grounds. An order has gone forth—a very excellent order—curtailing pension examinations which is going to create a surplus of personnel amongst medical men in the Department of Pensions. I very respectfully suggest to the minister and to your committee that you recommend that all surplus staff be continued and carried on the treatment branch of the Department of Pensions and National Health, and that something be done for free medical hospitalization in regard to the cases I have mentioned.

There is one other matter about which I will ask your indulgence, although it is not, strictly speaking, a Dominion matter. I am going to file a brief with you on this matter and, possibly, in a few day's time when I get back to Vancouver I can prepare a longer brief upon the subject. I refer to the Better Housing Act of 1919. We have come to the conclusion that many of the ex-service men who bought houses under this scheme will never own them outright, and that unless some method is adopted whereby the amount due in interest and principal is written down, many of the houses will revert to the city or municipality. The Federal government cannot wash their hands entirely of this responsibility because the moneys were supplied by the Dominion government and guaranteed in turn by the Provincial and Municipal authorities.

Take Vancouver city, for instance. We have a total of 151 agreements which were entered into in 1919 by ex-service men in good faith when prices were high. No less than 103 of the 151 agreements are in arrears, and some have been foreclosed. In New Westminster—the city from which my good friend Mr. Reid comes—we have 26 agreements and no less than 21 of them are in arrears and some of them also have been foreclosed. I shall file that with you for the moment and at a later date forward to you some further information concerning the Better Housing scheme. We have some acts of 1926, 1927 and 1928 that have undoubtedly been referred by the House of Commons to this committee. I do not know whether you want to discuss them or not. I believe that two of them have already been discussed; the other one, covering the merging of the appeal court with the Canadian Pension Commission has not yet been discussed.

General Ross: Yes. I discussed that.

*By Mr. Mutch:*

Q. In that regard may I be allowed to ask the witness a question; and I am prefacing my question by saying that I am not asking for his own personal opinion with regard to this appeal court: I wonder if he has not found it to be a fact in his experience that the dissatisfaction with this tribunal is one of personnel rather than the constitution of it?—A. Well, I note on page 2 of Bill 26 that one animal was born and killed. They were able to kill it off. This is rather a difficult animal, and possibly we cannot kill it off so easily. I think I speak for the west, without expressing any personal opinion, when I say that as far as we are concerned the Pension Appeal Court is no use to the ex-service men at all. As far as we are concerned, it is a waste of money and a waste of effort when you consider any benefits that the ex-service men may have got from the operation of that court.

Q. To what do you attribute that—to some weakness in the constitution or to the inability or unwillingness of any individual to make it function?—A. That, of course, is very difficult to say. If you make a direct charge against the Pension Appeal Court they may come back and prove absolutely on legal grounds that their decisions are correct; but we have always figured this, and I think the people of Canada will generally agree, that you cannot judge veterans' questions entirely on legal grounds; there are many other aspects of the situation that must be taken into account by even a legal court in dealing with our problems. I just want to say this, and I put myself in writing. You can take it as coming personally from myself or from western Canada. It is as follows: "Without in any way criticizing Mr. Justice Hyndman of the Pensions Appeal Court, may I say that in so far as the ex-service men are concerned the Pensions Appeal Court has been a complete frost and is of no benefit or use to veterans in general."

We view with considerable anxiety the suggestion that this Pensions Appeal Court, en bloc, be amalgamated with the Canadian Pensions Commission.

The Canadian Legion and other veteran organizations spent years of effort to improve conditions on the Canadian Pension Commission which had suffered from mal-administration for a period of years.

We had a very unpleasant fight over the conditions that then existed, and I submit in the most sincere manner possible and without any intention to unduly interfere or criticize government policy that they are playing with fire when they suggest to try and mix the members of the Pensions Appeal Court with the Canadian Pension Commission. The Pensions Appeal Court has not the confidence of the veterans of Canada. I say without fear of contradiction that the Pensions Appeal Court as a body has not the confidence of the ex-service men in Canada. After a long period of years of suspicion on the part of ex-service men, the Honourable Mr. Justice G. F. Taylor has restored our faith to some extent in the Canadian Pension Commission. I say: "why not leave the Canadian Pension Commission." I say: "why not leave well enough alone?"

Mr. EMMERSON: Might I rise to call attention to an error in the record of Thursday's and Friday's proceedings. I find that I am shown as being absent from the meeting on the 2nd and 3rd. I would like to have that corrected.

The CHAIRMAN: All right, it will be corrected.

General ROSS: To complete the record of this morning I have here copies of the unemployment surveys, particularly the ones referred to by Captain Philpott. I would ask leave to file them with you. They are rather extensive and I do not suppose you would want to put them in the record. They are available to anyone who desires them.

[Mr. Robert Maenicol.]



I would also ask leave to file with you, as I have not time to discuss it at the moment, a brief which I have received from the Imperial section. I would ask you to read it. It is a very fair statement. I have already stated our position in regard to these Imperial veterans. This brief simply seeks to appraise you of their situation, and we are asking your sympathetic consideration of some method by which their request may be met, without asking you for any specific benefits.

The CHAIRMAN: There is no other evidence this morning. Is it the wish of the committee that we should meet to-morrow? If we do we could possibly clear up the presentation by the Legion.

General ROSS: I am sorry I could not be with you. Mr. Bowler I think probably could finish up all the parts of my brief that have not yet been covered. That is the only thing we have ready for to-morrow.

The CHAIRMAN: Then, we will meet again on April 21st. We will be coming back on the 20th and I think then we can meet on the 21st and hear what Mr. Bowler has to say. Then we have to hear the Canadian Corps Association, and the Army and Navy Veterans.

Sir EUGÈNE Fiset: Is it your intention to sit daily, or are you going to give us an opportunity to go into some of the other committees?

The CHAIRMAN: We have the Army and Navy Veterans, the Corps Association, the Amputations Association and possibly also the pensioners to hear. Then there are a large number of other associations who wish to be heard, and the T. B. section want to add something. We ought also to hear some departmental witnesses, and it has been suggested that Mr. Justice Taylor should come; and also that Mr. Woods should come. So that I think will keep us busy for some time.

The committee adjourned to meet again on Tuesday, April 21, 1936, at 11 o'clock a.m.









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LEGISLATIVE COUNCIL OF THE NATIONAL STATION  
Problems, Special Committee, 1936  
SESSION 1936

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(HOUSE OF COMMONS)

SPECIAL COMMITTEE

ON

1936  
**PENSIONS AND RETURNED SOLDIERS'  
PROBLEMS**

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 5

TUESDAY, APRIL 21, 1936

WITNESS:

Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire  
Service League

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936





## MINUTES OF PROCEEDINGS

TUESDAY, April 21, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 o'clock; Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Betts, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Isnor, MacLean (*Prince*), MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid and Ross (*Middlesex East*)—18.

The Committee discussed its program for the week and decided to meet on Wednesday and Thursday afternoons from four to six o'clock.

Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire Service League was called and examined.

Mr. Bowler filed three Judgments of the Pension Appeal Court, Nos. 192004, 86262 and Reference on Section 65 (c) of the Pension Act, 23-24 Geo. V. Ch. 45.

The Committee ordered that a copy of each of these Judgments be provided for each member of the Committee.

Mr. Isnor was present at the meeting on Friday, April 3rd, although inadvertently it was not noted in the Minutes.

At 1 o'clock the witness retired, and the Committee adjourned to meet again at 4 o'clock, p.m., Wednesday, April 22nd.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

April 21, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman presiding.

Mr. MALCOLM McLEAN (Deputy Chairman): Gentlemen, I have promised to be present in another committee this morning, and, as our chairman is not likely to be with us for some little time, I would ask Sir Eugène Fiset to take the chair.

The ACTING CHAIRMAN (Sir Eugène Fiset): Mr. Bowler, will you proceed.

Mr. J. R. BOWLER, recalled.

WITNESS: Mr. Chairman and gentlemen of the committee, I would like to file copies of three judgments of the Pension Appeal Court to which I referred in my evidence given to this committee on the opening day, April 2nd. One has to do with an interpretation of section 19B of the Pension Act, that is the house-keeper's allowance.

The ACTING CHAIRMAN: Do you want these to be included in the proceedings?

WITNESS: No, I am filing them with the secretary of the committee.

Another one has to do with the judgment dealing with the interpretation of section 12C to the Pension Act, to which I also referred in my evidence. And the other one has to do with the interpretation of the definition of improper conduct as it appears in the Pension Act. I referred to each of these judgments in my evidence previously.

The ACTING CHAIRMAN: Do the gentlemen of the committee desire that copies of these be made for the information of the committee?

Mr. MACNEIL: They will be filed, will they not?

The ACTING CHAIRMAN: They will not be included in the evidence. They will be filed with the clerk and will be available to the committee.

Mr. CAMERON: They are very important. Are they very long?

(Acting Chairman retires: Hon. C. G. Power, chairman presiding.)

Sir EUGÈNE FISET: I think the gentlemen of the press would like copies of these statements to be typewritten.

Mr. GREEN: I think it would be a good idea if each member of the committee had a copy of the judgments.

The CHAIRMAN: The Armstrong case is one of self-inflicted wounding. I see no reason why that should not be taken up in the press, if they want to. It is highly technical.

Sir EUGÈNE FISET: I made a mistake when I referred to the members of the press, I meant the members of the committee.

The CHAIRMAN: We will have copies made and distributed to members of the committee.

(Agreed.)

Now, Mr. Bowler, will you proceed.



WITNESS: Mr. Chairman and members of the committee may I revert for a moment to the blue brief filed by the president of the legion, General Ross, when he commenced his evidence on April 2nd. There are a few items in that brief which have not yet been dealt with. I refer particularly to page 8 of the brief wherein it will be found that there are certain specific recommendations for amendments to the War Veterans' Allowance Act—there are eight altogether. But it appears from examination of the bill now before the committee—an Act to amend the War Veterans' Allowance Act, Bill 27—that four or five of these suggestions are wholly or partially provided for.

The CHAIRMAN: The batting average is pretty high.

WITNESS: Pretty good. There are no complaints. I shall start with number 1: A recommendation for the amendment of section 2 asking for provision for changing the name of the committee to the "War Veterans' Allowance Commission" so as to make clear its proper legal status and functions. The new bill provides that it shall be called the War Veterans' Allowance Board which, I think, serves the purpose equally well.

An amendment to section 4 to reduce the residence in Canada qualification contained in this section from one year to three months.

That is not provided for in the new bill. Section 4 of the War Veterans' Allowance Act as it now stands sets out the conditions upon which the allowance may be granted and adds at the end, "and has for the one year immediately preceding been domiciled in Canada."

Now, the legion suggests for the consideration of the committee that the time limit is high, and that, perhaps, a lesser period, say, three months would serve the purpose. The point is that quite a number of our men went to the United States since the war in an effort to re-establish themselves—a great many have done so—and it would seem that no one who made that endeavour should be penalized by reason of so doing. I think it is quite apparent from the wording of the present statute that the principle of granting the allowance to a man who has left the country and subsequently returns is conceded. It is simply a question of the conditions with which he has to comply. I suggest to the committee that one year is too long. It can be assumed that a man returning, say, from the United States to Canada with any hope at all of getting the war veterans' allowance after his return must be indigent in the first place, otherwise he could not qualify when he got here; the very fact that he is indigent is the fact that makes it almost impossible for him to exist for a period of one year in Canada. He has lost his residence wherever he had it; the municipalities will not have him, and the question is how is he going to live for a year. I understand that the number of applications under this act is quite small. Perhaps Mr. Woods would tell the committee more about that later on. Therefore, the additional cost would not be very great. I submit that for the consideration of the committee.

MR. CAMERON: How will that affect a man who has become a naturalized American citizen?

WITNESS: I do not think the War Veterans' Allowance Act, any more than the Pension Act, makes any distinction in the case where a man has changed his nationality. The Pension Act makes no distinction, and I do not think this act does either.

The CHAIRMAN: Any former member of the Canadian Expeditionary Force. A lot of them were not British subjects as was well known—a very large number of our soldiers were not British subjects at all and never became British subjects.

WITNESS: If there are not further questions I will go on to the next: an amendment to section 6 of the present act. We suggest an amendment vesting in the committee discretion to award allowances on the basis of a married

man to a widower with children, although not residing with such children, providing that justifiable reasons for not so residing with the children are shown.

The CHAIRMAN: That is a little complicated, is it not?

WITNESS: It is. The present act, section 6, subsection 2, says: "No married man or widower shall be entitled to any allowance in excess of the allowance payable to a bachelor, unless he and his wife or one or more of his children reside together."

Those are the words "reside together" that have caused the trouble. This I may say again has to do only with an occasional case and no great amount of money is involved.

*By Mr. Mulock:*

Q. How many of them are there in that class?—A. Personally I have heard of only very few, less than a dozen; but we are suggesting that there may be cases, in fact there are cases in our opinion where it is not possible or practically possible or desirable for a child to live with a widowed father. He must make some disposition of the child. In cases such as that we submit that the committee have discretion to make the allowance.

*By Mr. Hamilton:*

Q. Does that mean that if the man's child was living with his mother in some other place than where the man was working he would not get that?—A. Or with some other relative.

Q. Although he might be maintaining the children?—A. Yes.

Mr. MUTCH: A man might be working in the north country under perfectly ungodly circumstances and has to raise a family and maintain it in the city. That would cover his case.

The CHAIRMAN: If he had a job and was earning his living, he would not be a war veterans' allowance case.

WITNESS: He might get it for casual earnings. Might I cite a case which illustrates the point? The name and number need not be quoted: Widower crippled with disseminated sclerosis. Can only move around his room on his hands and knees, and requires a wheel chair for outdoors. Has a son twelve years of age going to school. Allowance was paid at married rate for some time—that is under the provision of section 6—but it was discovered at one of the periodic check-ups that they were no longer living together, the child living with relatives where he could be properly cared for. The man was warned that the allowance would have to be reduced unless they were living together. The committee had no alternative but to tell them that. This they subsequently did and the allowance continued to be paid at the married rate. The reports, however, are such that it is evident that the man cannot properly care for his child; that he is often irritable and living conditions were much better when the child was in the care of relatives. However, circumstances are such that the man must maintain the child regardless of whether or not they are living together. That will serve as an illustration of that type of case. I think the war veterans' allowance committee will tell you that the number in that category which occur are quite few, but we are only suggesting that the committee be given discretion.

*By Mr. Reid:*

Q. Do the children at the present time affect the allowance? Suppose you have a husband and wife living together getting \$40 and one getting \$20?—A. In the case of a man and wife—I am speaking subject to correction—I

believe that the children are not taken into consideration at all. In the case of a widower with a child, such as in the case I am speaking about, the child is considered as the equivalent of a wife, for the purpose of calculating the allowance of a wife.

The CHAIRMAN: Under section 6 the allowance paid to a married man or a widower with a child or children shall be \$480 less the amount of the income.

WITNESS: Section 7 of the present act says, "... shall be excluded as income for the purposes of the War Veterans' Allowance Act." That, I observe, is provided for in the new bill section 9: An amendment vesting in the committee discretion to award allowances to widows in such cases where it appears that an award to an applicant would have been approved, had he not meanwhile died.

Now, members of the committee know that under this section 9 of the present act if the recipient dies the committee has discretion to pay twelve months' allowance to the widow. Now, cases have occurred—again they are very very few—where the applications have come in before the committee and it has been quite clear that had the man lived the application would have been approved, and once having been approved and the allowance paid, had he died after that the widow would become entitled under section 9.

*By the Chairman:*

Q. Surely there are very few cases such as that?—A. Yes, very few cases.

Q. And then it is only a matter of twelve months' allowance?—A. Yes. I would like to make that clear. There is no suggestion here of criticism of the committee causing the delay. They have a very efficient system whereby cases of a dangerous nature, when a man's condition is dangerous, are routed straight through. I believe they are dealt with—I am convinced they are dealt with as far as it is humanely possible to do so. Notwithstanding that, cases of the nature I refer to do sometimes occasionally occur, and we are asking that where that does happen the committee should be given discretion.

Q. The act would have to be drafted very carefully, It is a very difficult thing to draft, I would say. I can't imagine that there is real hardship involved in that; particularly since the War Veterans' Allowance Committee works pretty fast. Do you know, Mr. Woods, if there are very many cases such as these?

Mr. WOODS: There have been 91 cases in which the veteran died. In 50 of these married cases he was insured, so that the widow was provided for in that way, while in 41 there was no provision made for the widow.

The CHAIRMAN: Would he have obtained the War Veterans' Allowance?

Mr. WOODS: The fact that he died between the time he made application and the time the commission dealt with it indicates that we would have awarded the allowance if he had lived.

The CHAIRMAN: You say there are 40 cases. Then this amendment is proposed for the purpose of dealing with just 40 cases.

Mr. WOODS: There have only been these 41 cases in the five and a half years in which we have been operating.

The CHAIRMAN: There are 91 cases in all, and in 50 odd cases the dependents would not have been paid anything because the insurance made provision for them.

Mr. WOODS: The average of insurance paid in each of these 50 cases was \$1,750.

[Mr. J. R. Bowler.]



*By Mr. Mulock:*

Q. In other words, this would only apply to cases where application had been made before hand?—A. That is what we have in mind.

Mr. BETTS: That would meet the objection which has just been raised.

The CHAIRMAN: Yes, I think it would.

WITNESS: We have no ulterior motive in this application.

*By Mr. Betts:*

Q. Would you be satisfied by having these words added to the present section?—A. Yes, that is the sense of our recommendation. The wording is not as clear as it might be. I admit that. That is the intention of our application as made.

*By Mr. Mutch:*

Q. In other words, a veteran must have made an application in order to be eligible?—A. Yes.

Mr. MULOCK: It is just as well to have it quite clear.

*By the Chairman:*

Q. What is your next point?—A. My next point is section 13, the proposed amendment vesting in the committee discretion to award partial allowance to dependents in cases where the recipient is admitted, without pay and allowances, to a departmental institution. That is taken care of in the bill.

Then, section 17: an amendment to provide that recovery of overpayment of allowances shall be in the discretion of the committee, as is the practice under the Pension Act. At first glance I thought that that was provided for under section 2 of the new bill, which adds a subsection to section 3 of the Act, reading as follows:—

Subject to the provisions of this Act the Board shall consider and adjudicate upon all questions relating to the award, increase, decrease, suspension or cancellation of any allowance under this Act or for the recovery of any overpayment which may have been made and effect shall be given by the Department and the Comptroller of the Treasury to any such decision of the Board.

I thought the provisions in that new proposed section dealing with recovery would have covered that, but I find that the new bill, section 17, still reads:—

The amount of any payments of allowances made by reason of non-disclosure of fact, or of innocent or false misrepresentation shall be recoverable from the recipient as a debt due to the crown.

I think the War Veterans' Allowance Committee will admit there are cases where a man has been overpaid for some reason or other, but without any deception or fraud, or will to deceive, or anything like that on the part of the recipient, and where the committee would like to have discretion not to penalize him by reason of his innocent mistake. In other words, they would like to use their own judgment as to whether they recover the amount of the overpayment from him or not.

*By Mr. Mutch:*

Q. Is there in existence any record of overpayments which have been recovered?—A. Mr. Wood can answer that better than I could. I feel convinced that under section 17 they have had to recover in every case. They have had no discretion about it.

Q. Would that happen in the future?—A. Yes.

The CHAIRMAN: How do you do that, Mr. Woods?

Mr. WOODS: A deduction is made from the allowances. We make a monthly deduction.

Mr. MUTCH: But, if it doesn't continue, what do you do?

The CHAIRMAN: What do you mean, if it doesn't continue?

Mr. MUTCH: If he doesn't continue on relief. He says if there is a continuation of the payment now, or if there is an allowance, there is a monthly deduction. Supposing, and this rather involves the whole thing, a man is struck off and all payments stop; how do you recover then?

Mr. WOODS: If there is no method of recovery it stands as an overpayment until such time as he receives an allowance again.

Mr. CAMERON: There is a method laid down in section 17.

The CHAIRMAN: Have you ever recovered?

Mr. WOODS: Yes. But if there is no pension or other assets, if there is no method of recovery it must stand as an overpayment.

WITNESS: The crown never institute proceedings for recovery.

The CHAIRMAN: The crown never institute proceedings for recovery?

Mr. WOODS: No, never.

Mr. MUTCH: The crown cuts the pension.

The CHAIRMAN: Have you been recovering from pensions?

Mr. WOODS: In occasional cases, but not where it has been innocent on his part, but where there has been deception on his part, such as going to work and not notifying us, we have in some cases made recovery from pension.

Mr. CAMERON: In other words, you have been exercising your discretion. You want that change made now.

Mr. WOODS: Yes. We have been exercising our discretion.

Mr. MUTCH: A pension is not attachable for that. I imagine it would be interesting if a man wanted an investigation where anybody made a deduction from his pension.

WITNESS: In any case, the point of the recommendation is that where a man is acting in entire innocence the amount should not be necessarily recoverable. I think that completes my submission.

*By the Chairman:*

Q. "Provision for access by the committee to census returns," that is provided for?—A. That is provided for in the new bill; so that five and a half out of eight is not a bad batting average.

*By Mr. Betts:*

Q. Could you tell me which ones have been provided for, I do not know that I have them all down?—A. "a," "d," "f," "g," partially, and "h."

WITNESS: May I proceed now, Mr. Chairman, with the new Pensions Bill. General Ross dealt with that up to a point before he left, and the understanding was that I would endeavour to finish it. When this bill was being discussed we—that is, the Legion—distributed to members of the committee a stencilled memorandum headed "Submissions and observations re the proposed amendments to the Pension Act, Chapter 157, R.S.C., as amended." If members of the committee can refer to that now it will perhaps facilitate matters. General Ross dealt with the new bill up to and including section 12A on page 8. That had to

[Mr. J. R. Bowler.]

do with limiting the time of applications for pension. Therefore, if I might start with section 13 on page 8, which provides for a new clause dealing with the recovery of retroactive awards from relief. I start with subsection 9:—

(9) If any person who is or has been in receipt of relief or unemployment assistance from the department is or has been awarded a retroactive increase of pension, the difference between the amount actually paid by the department and the amount which would have been paid if the increased retroactive pension had been payable when such relief or unemployment assistance was issued shall be a first charge upon the accumulated unpaid instalments on such pension and shall be withheld accordingly.

As I understand it that simply confirms what has been the practice for some time in the department. Our comment in the memorandum is as follows:—

This is satisfactory but it should be pointed out that if there is a restriction of retroactivity as provided for in section 27—that is a new section which I will come to later—"recovery should only extend over the period for which retroactive pension is paid."

The CHAIRMAN: I do not quite understand that. The idea of the section is that if a man was in receipt of a pension he should not have been receiving relief; in other words that the crown should be reimbursed on account of relief paid when retroactive payment of pension is authorized. Supposing he had been drawing relief for five years and then gets an award of pension retroactive for that length of time, a considerable sum of money would be involved, something over \$4,000 in the case of a maximum pension; so that it would be only fair that the crown should get back the amount of money they had paid to him by way of relief.

Mr. HAMILTON: Supposing he had been getting relief for five years and the pension award was only retroactive for two years; would you take back the relief payments for the full five years?

WITNESS: That is what I am trying to get at. I think the section means what the chairman says.

The CHAIRMAN: You would only take back the amount that you had paid him for relief.

Mr. Mutch: But only during the time he should have been receiving his pension.

The CHAIRMAN: That does not matter. If he drew two thousand dollars worth of relief and the award entitled him to two thousand dollars back pension you would get back the two thousand dollars relief.

Mr. Mutch: Even though the pension does not go back as far as the relief?

The CHAIRMAN: I think so. Supposing he was awarded a 100 per cent pension for one year back, that is \$1,200; and supposing he had drawn two years relief, say \$700 or \$800; don't you think he should pay back the \$700 or the \$800?

Mr. Mutch: My first thought would be that you deduct relief for the years during which the retroactive pension award applied; otherwise he should be treated the same as any other person on relief—forget about it.

WITNESS: I think perhaps this is the position, if I might try to explain it: a man has to be a pensioner in the first place in order to qualify for departmental relief. The amount of relief he gets is the difference between the amount of pension he is being paid and the maximum amount of relief for the particular area in which he lives. Now, even supposing that to-day he gets a retroactive award of pension—

Sir EUGÈNE Fiset: That would be an increase in pension.



WITNESS: An increase in pension, which would date back for a couple of years. Assume that the retroactive increase is 10 per cent. When that is credited to him it will mean that in addition to his readjustment of pension plus the difference between the pension and the maximum amount of relief he will now be receiving a larger amount of pension by ten per cent. The proposal of this section I think is that he shall be put in the same position as though he had always received no more than the maximum amount of relief. The suggestion which we make, and I am not sure that it is entirely in point, because the language in the section is not very clear, is that he should not be assessed for purposes of recovery any amount beyond the period set out in the retroactive award.

Sir EUGÈNE Fiset: But you are discussing there the case of the pensioner who is already pensioned and who has received relief. What about new cases of new applications for pension in which a retroactive award is given?

The CHAIRMAN: They would not be getting relief from us unless they were pensioners.

WITNESS: I proceed now, Mr. Chairman, to section 14 on page 9 of the new bill. This section repeals section 21 of the present Act, known as the "Meritorious" clause, or the compassionate clause, and substitutes a new and simplified procedure. Perhaps I had better read the new provision, it says:—

21 (1) The appeal division may, on special application in that behalf, grant a compassionate pension or allowance in any case which it considers to be specially meritorious.

(2) The amount of any compassionate pension or allowance under this section shall be such sum as the Appeal Division shall fix, not exceeding the amount to which the applicant would have been entitled if his right to payment had been upheld.

Now, that provision is not referred to in the stencilled memorandum, but I would like to suggest to the committee that they should seriously consider the advisability of transferring the operation of the meritorious or compassionate clause from the Pension Commission to the Appeal Division.

*By the Chairman:*

Q. Is that not provided for?—A. No, sir, at the present time it is under the jurisdiction of the Pension Commission, but with the right to appeal under certain circumstances to the Pension Appeal Court.

Q. Your idea is that the Pension Commission should have nothing at all to do with meritorious claims?—A. No, the effect of these new proposals will do that.

Q. Yes?—A. I am suggesting that that should be retained by the Pension Commission.

Q. With an appeal?—A. With an appeal. My reason for suggesting that is because the Commission have greater facilities for the acquisition of personal knowledge of individual cases whereas the Appeal Court never comes into intimate touch with the individual, as a court of record it never sees the individual and cannot know the private circumstances of a claimant.

Q. But this is no longer an appeal court, it is an appeal division of the Commission?—A. I take it that it is to function largely in the same way, according to the wording of the new bill.

Q. You are just prolonging the agony. I imagine that is the only thing. It is a compassionate claim.—A. Then, if we had to relinquish our right of appeal to the Appeal Division I would still strongly suggest that the jurisdiction should remain with the Commission in the first instance.

[Mr. J. R. Bowler.]

Q. Don't forget that the Appeal Division is part of the commission and has available to it all the facilities of the commission with regard to enquiry, investigation and so on?—A. If that were made clear, that applications under this section of the Appeal Division it would be tantamount to an application to the commission, in the same way as we do it now, it would be all right.

Mr. MACLEAN (Prince): There is not much chance of a pensioner getting support through an appeal. They are always endeavouring to take the pension away from a man.

The CHAIRMAN: We abolished the Appeal Court. The question in my mind is whether we should prolong a man's agony by letting him have two chances on a meritorious claim or just one. After all, it is purely a matter of discretion which is presented in these meritorious claims. Are you going to have three people sit on it or six. That is the whole point, isn't it?

Sir EUGÈNE Fiset: Don't you think it is well worth while to consider the fact that the members of the Appeal Division created in accordance with the provisions of the new bill are at the same time members of the Pension Commission.

The CHAIRMAN: Yes, they are.

Sir EUGÈNE Fiset: And in that event they will be dealing with the same cases.

WITNESS: I would strongly suggest that if it is going to be limited to one hearing, that hearing should be before the Pension Commission.

Mr. BETTS: Where would the Appeal Division sit?

The CHAIRMAN: Right here at Ottawa.

Mr. CAMERON: Then, an appellant will have to come to Ottawa.

The CHAIRMAN: He has to now anyway.

WITNESS: Yes, they have to come to the commission.

The CHAIRMAN: It is a purely discretionary matter. This meritorious clause was put in to provide for those who could not get a pension otherwise. The question of award in respect to meritorious claims is purely discretionary. At the present time that discretion is vested in the commission. I do not know whether or not it has worked well, but I imagine it is not working very well from the standpoint of the applicant.

Mr. HAMILTON: The suggestion is made back here that this is a matter which should be left to the discretion of the minister.

The CHAIRMAN: Oh no.

*By Mr. Reid:*

Q. Before you leave that, have you given any thought to existing regulations as they apply to meritorious cases? I understand that the department have certain rules and regulations now as to the interpretation of the meritorious clause. It was made a matter of discretion in the Act, but my information is that some regulations have been drawn up by the department practically defining meritorious cases and if they do not come within this definition the case is thrown out?—A. I think you will find that this meritorious clause was referred to the Pension Appeal Court for interpretation and that a judgment with respect to it was handed down. It should be possible to produce a copy of that judgment for your committee.

Q. That angle of it is fairly serious, and it is one which should be gone into?—A. I know that that the judgment is regarded as binding upon the Pension Commissioners.

Q. I think we should go into that angle of it. I do not think they had any right to set up any rules or regulations prescribing the form which these meritorious cases should take.

The CHAIRMAN: The only point at issue at the present time is whether or not—there is no question of doing away with these meritorious claims—as to whether or not the commission should hear these claims as a commission, or whether it should go before the Appeal Division. That is the controversy between us at the moment.

Mr. GREEN: Could you give us the number pensions granted on meritorious grounds?

The CHAIRMAN: I haven't got that, offhand. We could get that for you. Mr. Dickson, will you take note of that and give us the number of claims granted under the meritorious clause since it was brought in.

Mr. MULOCK: And the number of applications, so as to get an idea of the work involved. We do not want to hold up the work of the Appeal Court.

Sir EUGÈNE FISET: Just the same, Mr. Chairman, I see some point to the statement made by Mr. Bowler. If the Appeal Division is to be part of the commission to sit as a Court of Appeal, unless it sits permanently as a Court of Appeal or as a commission some of the members would be examining the same case twice.

The CHAIRMAN: We provide that they will not hear the same cases in appeal as are before them as members of the commission.

Sir EUGÈNE FISET: I think that is important.

The CHAIRMAN: It does not make very much difference. My thought in checking up this legislation was that the person making a meritorious application should know that the highest possible court had heard it.

Mr. BROOKS: The very name "Appeal Commission presupposes that it has been heard by the commission.

Mr. HAMILTON: I do not know that this is the time to raise this question; but, generally, would the Appeal Division be bound by the decisions of the Appeal Court that have already been made, by interpretations, opinions and so on?

The CHAIRMAN: I do not know if there is any law on the subject which says they shall.

Mr. MUTCH: The easiest way to settle it, just look up the latest decisions.

The CHAIRMAN: I do not know that that applies particularly.

Mr. HAMILTON: What I mean is are they going to work on decisions already made, and on interpretations of the wording of sections of the Acts; are they going to be bound by them?

The CHAIRMAN: There is nothing in the Act which says that they are bound in that way.

Mr. HAMILTON: As a matter of practice I was just wondering if they would consider themselves bound by these decisions.

The CHAIRMAN: It depends largely on the personnel of the commission who sit in appeal. There is no appeal from them. I doubt whether we could give any instructions to any appeal court on matters of law or jurisprudence.

Mr. HAMILTON: Could it be provided that this Appeal Court should not be bound by decisions already made?

The CHAIRMAN: Do you mean, re-open all cases?

Mr. HAMILTON: I do not mean that, but rather interpretations that may affect cases which come before them. For instance, "meritorious" has been defined. I do not know anything about it, but a routine has been laid down as to what constitutes a meritorious appeal and so on. We are to have a new Appeal Tribunal, and they may feel themselves bound by these decisions.

Mr. BROOKS: I should think that each case should be considered on its own merits.

[Mr. J. R. Bowler.]



The CHAIRMAN: That is what the meritorious clause is for.

Mr. CAMERON: It comes down to personnel.

The CHAIRMAN: I should think so. I do not think they should feel themselves bound by any jurisprudence.

Mr. MULOCK: Would it not be better for us to place an interpretation on the term "meritorious."

The CHAIRMAN: There is no reason why we should not discuss that here; what interpretation has been given to the meritorious clause, and if any change is necessary.

Mr. MUTCH: Has somebody had the timerity to write down what constitutes meritorious service?

The CHAIRMAN: I do not know just how far they have gone in that connection.

Mr. MUTCH: If it is in writing it would be a most interesting document to have produced.

WITNESS: To the best of my knowledge the Appeal Court has interpreted section 21, and there is on file a judgment which can be filed before this committee.

Mr. REID: I understand it goes further than that. I understand they have made rules which they have built up in practice and which differ from the original intention of the meritorious clause; and that if you do not come within their provisions you are just out of luck.

Sir EUGÈNE Fiset: In other words, they gave an interpretation to the wording of the Act which we do not dare to do here.

WITNESS: I think they have all decided that there has to be some colour of claim to a pension of some sort.

The CHAIRMAN: There has to be meritorious service.

WITNESS: Not necessarily.

*By Sir Eugène Fiset:*

Q. Are you working under the impression in submitting that amendment that the appeal division as created by the act is a permanent body, or can they act as members of the Pension Commission as well as the appeal commission?—A. I am under the impression that the members of that appeal division may revolve; they may go out on circuit and go back in the appeal division.

Q. What is the use of your amendment?—A. What I had in mind was this, that the appeal division or whatever you may call it, is more or less a judicial body whose functions are to make decisions from the record; whereas it seems to me that the very essence of determining questions under the meritorious section is that you shall see and hear the actual people involved and inquire personally into the circumstances.

Q. They will see the people themselves as members of the pension commission. It seems to me that the cases that will be appealed from the Pension Board under this new act will be simply the cases that have not been decided finally by the commission. Then they will be referred to the appeal division—such cases as they do not feel inclined to decide for themselves. That is the only way it can possibly work.

WITNESS: I admit that the present procedure might well be simplified, but with the risk of labouring my own point I would like to impress my opinion and that of the legion that the Pension Commission and not the appeal division ought to have that power.

The CHAIRMAN: That is your amendment. I have no strong views either way.

*By Mr. Mutch:*

Q. On what basis is the objection to going to the appeal court— —A. It is not based on any animosity towards the courts; it is based on the fact that the appeal court at the present time—and I am assuming that the appeal division will now be synonymous with the court—have nothing to do with the seeing or hearing of these cases. Might I cite two cases. I had to do with them personally. One was a case of a widow whose husband was killed on service. He died from war disability, there is no question about that. In the first instance the widow was awarded pension. Later somebody raised the question as to whether the widow had or had not been maintained by her husband for a reasonable time prior to enlistment. I think it was the mother-in-law in the case who raised the point. In any event, the commission cut the pension off, and the matter stayed in that position some years. The widow pressed the case again and eventually she got herself re-established. Later somebody brought the matter up again and they cut her pension off for a second time; they said there was no maintenance. I submitted that case myself to the Pension Commission. The Pension Commission heard the woman, heard all the living witnesses who were available to give evidence as to whether there was or was not maintenance before enlistment and decided that it was a very difficult question to decide because the evidence was so conflicting; but on the whole the case was meritorious, and they awarded that widow a pension under the meritorious clause. I think that was exactly the sort of case that the clause was put in there for. My point is that the appeal court have never followed procedure of that kind, and I doubt if it is proposed that the appeal division will, because their function is simply to determine cases from the records.

*By the Chairman:*

Q. Would not you say that 99 per cent of the meritorious claims are disposed of without the applicant ever having been seen or heard—90 per cent anyway?—A. That might be true as applied to present experience with the commission at Ottawa, but the commission has facilities throughout the country whereby their pension officials can hear and inquire into the circumstances and conditions.

Q. Certainly there is no thought in my mind that the appeal division would not use those facilities in regard to meritorious claims. You are quite right; it is essential that they should know about other circumstances because those matters are decided on circumstances rather than on straight law. There is no law involved in a meritorious claim at all.

Mr. GREEN: Is it not reasonable to suppose that the new Appellate division will sit in Ottawa and be the same group. They are not apt to be changed around—and, therefore, we know that appellate courts are very much against hearing evidence.

The CHAIRMAN: The commission does not hear the evidence either, but they have a file. This Appellate division, if they are going to decide on one of these cases, should ask the investigator in the particular district to give a report on the case, they should possibly ask the medical advisor or the representative of the department to tell them all about the case.

Mr. GREEN: Would not the functions of the Appellate division dealing with this matter be entirely different from the ordinary pension claim—it gives them an entirely different field to work in.

The CHAIRMAN: Yes. If Mr. Bowler will draft a suggested amendment—

WITNESS: I will do my best.

[Mr. J. R. Bowler.]

Mr. BETTS: Suppose that the legion amendment be adopted, would the legion be satisfied to relinquish any right of appeal in the matter?

Mr. GREEN: Why not?

Mr. BETTS: I do not know. I am not saying they should. I am asking. He suggests that these matters go to the commission instead of the appeal division. Would Mr. Bowler be satisfied with that without any right of appeal to the appeal division?

WITNESS: Might I give my own personal opinion—I have not consulted with the legion on that point. I doubt if an appeal to the appeal court is of much value, if any.

*By the Chairman:*

Q. In a matter of that kind, I am inclined to agree with you?—A. As far as I am concerned, if I have to choose between the two as to where jurisdiction should lie I would certainly say the commission because they have the facilities.

Section 15 on page 9 has to be read, I think, with section 16 on page 10. This has to do with the restoration of pension to those who commuted their pensions.

Q. And put the two together?—A. Originally a pension could only be restored if it was later shown that the pensionable disability had increased, but in 1930 an amendment was passed providing that they should all come in whether the disability had increased or not, providing some disability still remains. I am taking it for granted, Mr. Chairman, that the purpose of both 15 and 16 is to simplify the language and draughtsmanship and there is nothing else to it.

Q. That is the intention. There were two or three clauses before. There was an amendment made in 1926 and another in 1928 and another in 1930, so we have simply consolidated all the amendments into one. That is my intention. We had better check it up and see that we have not forgotten something?—A. It occurs to me that that is the case. I shall refer to it after. Apparently under the new provision, 16 on page 10, there is a serious limitation on the adjustment these men will be given. Heretofore, generally speaking, when a man has commuted his pension and subsequently been restored there has been an adjustment of pension over the period where he did not receive any. This section proposes to provide for an examination of the pensioner and then to say:—

Any pensioner who has accepted a final payment may, if it be found on examination that his pensionable disability has persisted or increased, be restored to pension in respect thereof as from the date upon which the amount of the final payment received by him is or was equal to the sum of the instalments of pension which he would have received if, instead of accepting a final payment, he had continued to receive pension at the rate in force immediately before such final payment was made....

That has been the basis up to that point on which adjustments have been made heretofore. Now, it is added:—

“.... or as from six months prior to the date of examination, whichever is the later date.”

Now, I know there is a provision in this bill curtailing rights in regard to retroactive pension. I have suggested to the committee that inasmuch as the great majority of those commuted pensions have now been restored and cleared up that those still remaining might well be put back on the same basis with the others.

Sir EUGÈNE Fiset: Have you any idea of the number affected?

The CHAIRMAN: Pretty nearly all. They have had since 1930 to make their claims to come back on pension. Pretty nearly all of them made their claims.



WITNESS: I think they are practically all in.

The CHAIRMAN: I have not heard of a case for a long time.

WITNESS: I now refer to section 17 on page 10. This deals with retroactive pension in the case of a new award for pension for disability. It repeals all the original legislation and provides that pension awarded for disabilities shall be paid from the date upon which application to the commission was made, or in the discretion of the commission, six months prior thereto, provided however that in no case shall any pension be paid for any period in excess of twelve months prior to the date upon which entitlement to pension was granted.

I would like to read from our memorandum on that subject on page 3:—

The Canadian Legion is fully aware of all the difficulties attending the award of retroactive pensions under existing conditions and of the fact that large awards tend to swell the annual pension bill with consequent difficulty in securing extension of benefits in other deserving cases. As an organization, therefore, we are prepared to give approval of the principle of restriction but would point out that, as an organization, we are probably not entitled to give full consent or sign away individual rights. There is a principle of contract involved. For instance, suppose a man died ten years ago and his widow claimed that his death was due to war service. Assume that she could not then secure the necessary evidence to establish her claim but later secured such evidence and consequent entitlement. In the meantime she would probably have suffered extreme hardship. We would hardly feel justified in saying that she should be denied any rights other than as set out in the proposed amendment. It is suggested, however, that as a reasonable compromise the period for which retroactive pension may be awarded should be increased or else discretion given to the commission to make retroactive awards in cases when it is shown that hardship or injustice would otherwise result.

This section, Mr. Chairman, I think has to be read in conjunction with section 20 on page 11 which provides for a restriction of retroactive payments in the case of an award to a widow.

Now, section 37(A) is the same as (c) on page 12:—

Pension awarded with respect to the death of a member of the forces shall be paid from the day following the day of the death except . . .

Then on page 12 (c) “. . . in the case in which a pension is awarded to a widow or child of a member of the forces on application, in which case the pension shall be paid from the date upon which the first decision granting entitlement was rendered or, in the discretion of the commission, six months prior thereto, provided always, if a decision of the appeal division is in favour of an applicant, pension may, in the discretion of the commission, be paid from a date six months prior to the date on which the application for pension was refused after the coming into force of this act by a quorum of the commission.”

As I said, the Canadian Legion is prepared to support the principle that so many years after the war the time has arrived when something should be done to limit the amount of retroactive payments involved. Whether this is precisely the way to do it is another question.

I would like to say in regard to questions referring to widows that any legislation which might leave the inference that the state would gain by delaying the decision—and I suggest that that draft does that—is bad because no matter how faithfully the state fulfils its obligations the pensioner, in the event of a long drawn out case, would always claim it had been to the advantage of the state to delay the decision, and I would suggest—

The CHAIRMAN: Your only objection is: “may in the discretion of the commission be paid from a date six months prior to the date on which the application was refused.”

[Mr. J. R. Bowler.]

WITNESS: Yes, was refused. Those are the words. Now, it is so long after the war and the preparation of some of these cases takes months and months, and there is no reason why the widow should be penalized by reason of that, nor do I suggest that it is advisable to leave the state open to criticism.

*By the Chairman:*

Q. We are going back. I do not get your idea. This widow was turned down by the quorum and afterwards granted by the appeal division. Then she gets her pension from the date prior to the date on which it was refused. It is quite an ordinary thing. We are saying that she had the right from the time she was refused and six months prior thereto. How would you change it? What would you change in that? You would not leave out "paid from the date six months prior to the date on which application was refused"?—A. No.

Sir EUGÈNE Fiset: You want the application considered from the date of the application for pension.

Mr. MUTCH: If it is granted.

The CHAIRMAN: You are giving the widow a better chance than the applicant himself.

WITNESS: There are complications there because an application under present practice is deemed to include a record of the disability on the documents which may have been placed there fifteen years ago. I think what we want to get at—and I have discussed this with some of the other associations—is some formula which will give us the date upon which the widow actively started to prosecute her claim.

Sir EUGÈNE Fiset: That is what I mean. It seems to me that the purpose you have in mind is to fix a date for retroactive action. Now, why not leave the date in, and if you are thinking of an amendment give the commission some discretion on the subject matter notwithstanding the provision of the act.

The CHAIRMAN: I do not know that the commission is very keen on that.

Sir EUGÈNE Fiset: We have to do our duty.

The CHAIRMAN: The bad retroactive claims—the retroactive claims which involve a lot of money at the present time, either pending or recently decided—I don't know which—include one which involves \$27,000 and another \$20,000, are widows' claims, are they not?

WITNESS: I think there are very few widows' claims.

The CHAIRMAN: The big ones I have heard of recently are widows' claims.

Mr. MUTCH: With regard to bill 27 and the limitation matter, how does that affect someone granted a pension in 1930? His application is 1930, and he is granted a pension and there is no difficulty or no question whatsoever. He is now in position to prove that the disability which was first applied for and granted in 1930 dates back to 1919 and he should have been pensionable all that time. Now, would this clause exclude him?

The CHAIRMAN: I think so.

Mr. MUTCH: Although he applied as early as 1930.

The CHAIRMAN: I think so. We will give him back a year.

Mr. MUTCH: There must be some cases before the commission at the present time where this is not retroactive in this respect.

The CHAIRMAN: There are cases. There was a suggestion made here that the commission was delaying the hearing of these cases, and I enquired into it, and though there was some thought of it it is not being done.

Mr. MUTCH: My point in remarking on that is that this morning I heard a suggestion by an interested party that these things were pigeonholed until this was done.

The CHAIRMAN: I understand that the commission is not going to take the attitude that they should delay these cases until the legislation goes through. That would not be very good practice, and I do not think they are going to do it.

Mr. MUTCH: I am not suggesting it for a moment. I was asking if there was anything to offset that. Is there some date added to it?

The CHAIRMAN: I think it affects existing applications.

Mr. GREEN: That is the intention, that all pending applications will come under this retroactive provision.

Sir EUGÈNE Fiset: You want to give retroactive effect to your legislation.

The CHAIRMAN: No, it affects any claims, the claims are not awarded. There is nothing retroactive about it. The claim comes in, and instead of giving two years or three years they will give one year retroactive.

Mr. MUTCH: If there were some way of suggesting that a claim filed before this bill was introduced—or something of that kind—would not be effective. Otherwise, you would have a file of claims coming in the same day. It seems to me that some exception in favour of those claims filed prior to the introduction of this bill might eliminate the criticism which people undoubtedly could make. Would it affect very many claims?

The CHAIRMAN: Ten thousand.

Mr. MUTCH: Ten thousand.

The CHAIRMAN: There are ten thousand claims knocking around. There were three thousand claims ready for hearing.

WITNESS: I would like to sum up briefly on this question again without attempting to interfere with anybody's individual opinion. Certainly, there are contractual rights. I can tell the committee definitely that the legion is of the opinion that the general situation in regard to pension administration will be improved by restriction of the present provisions in regard to retroactivity. Just what the formula is I am not able to tell you or whether that formula would be approved by everybody. I doubt it. Someone has got to take the initiative and do something. I do suggest that the way be left open for cases where there has been hardship and distress. Someone should have discretion to make a retroactive award in such cases—particularly those, for example, where a man made application some time ago. It may be a year or two years or three years ago. He was unsuccessful in the first instance, and as a result has incurred substantial cost for medical treatment, hospitalization and so on and so forth. He eventually succeeds. It seems to me that in the type of thing such as we are discussing now some provision should be made whereby he could be compensated for out of pocket expense which he would have escaped if his claim had been admitted in the first instance.

Sir EUGÈNE Fiset: By the amendment you suggest in a matter of this kind you destroy the object that we had in mind in accordance with the terms of this bill.

WITNESS: I appreciate the difficulties, sir.

Sir EUGÈNE Fiset: Have you considered the other phase of the case? You say that at the present time there are three thousand cases ready for decision.

The CHAIRMAN: Ready for hearing.

Sir EUGÈNE Fiset: Ready for hearing.

*By Sir Eugène Fiset:*

Q. Do you think the commission would be induced to consider the value of these claims, the amount involved, and the positive amount specified in the act should give them a chance to have their hearing completed?—A. You mean—

[Mr. J. R. Bowler.]



Q. The amounts involved for the payment of these retroactivities are so high at the present time that the commission themselves might hesitate to pass on them.

WITNESS: Strictly speaking it ought not to be so, and it sounds like a reflection on the commission or court to suggest that the amount of money enters into their consideration. However, human nature is human nature. I will go this far and say that pensioners were better off if retroactive awards did not have to be considered.

Sir. EUGENE Fiset: That is what I think. I was thinking of the pensioners when I said that.

WITNESS: May we go to page 11, section 18. This repeals the previous section 32 and substitutes the following.

*By Mr. Mulock:*

Q. Was there anything in your memorandum about this?—A. Yes, it is here. The memorandum does not mention this point. This is the section which gives effect to the recommendation with regard to the time limit—the ten year limitation which has previously applied in cases where a man dies from a non-war disability but whose pension is 80 per cent or upwards, or if he dies his pension will be paid to his widow in any case provided he dies within a period of ten years. That was referred to in the early part of the discussion, and I think there has been filed with the committee a statement showing the origin and development of this legislation. In fact, it is incorporated in the printed proceedings of the first day. The effect of this amendment is to eliminate the ten year limitation—meaning that if a man dies at any time, ten years more or less, and his pension is 80 per cent or more then his widow will be entitled to pension irrespective of whether death was due to war service disability or not; and may I add that the amendment is very gratifying to the legion and I am sure also to the other associations interested.

The CHAIRMAN: You do not want us to take it out?

WITNESS: We certainly do not. There is a new limitation. Apparently it is in line with the limitation which we have just been discussing in regard to retroactive awards to widows:—

Provided, no payments shall be made under this section from a date prior to that from which pension is payable under the provisions of paragraph (c) of section 37 of this act.

I would suggest the same point be considered there, and if the date of commencement of pension is to be the date of the decision of the commission, the question be considered as to the criticism which might arise on the ground that the decisions had been unduly delayed. I think there should be protection against that point if I am correct in thinking it is there.

The same suggestion applies to the next section, section 19, which is an amendment to section 32 A of the Pension Act. That also deals with widows' pensions.

On page 12, section 52—1. The Legion has a bone to pick in regard to this, Mr. Chairman. This has to do with the procedure in making applications for pensions and what happens if they are not granted, and when they go on to the quorums, and so on and so forth. Might I read the new section:—

52 (1) Whenever any application for pension is not granted, the commission shall promptly notify the applicant, in writing, of its decision, stating fully the grounds therefor; and shall inform such applicant that he may within the period of 90 days after the date of such notification, inform the commission of his intention to renew his application with or without additional evidence, in person or by or with a representative,

before a quorum of the commission sitting at Ottawa or elsewhere in Canada, and further, that he will be entitled in either case, to the assistance of the Veterans' Bureau in preparing his claim.

On the opposite page you will find the corresponding section in the Act as it is at present, showing in italics the words which are being deleted. This is on line 7:—

Inform the commission of his intention "to submit additional evidence with a view to the reconsideration of his application by the commission or"

Now, these words are struck out in the new bill. This is what we have to say about that:—

We submit that this will very seriously interfere with the adjustment of pension cases. Difficulty is always experienced by Quorums and Appeal Divisions in keeping abreast of their work. This will accentuate the situation. At present the Veterans' Bureau and Adjustment Officers of recognized Veterans' Organizations can discuss cases from time to time with the Commission and ultimately obtain adjustment or else reach the conclusion that success is impossible. This section would give only one chance, thereby greatly reducing the man's prospect of success and greatly increasing the burden upon the machinery of adjudication.

As we read this new section, Mr. Chairman, it does have the effect suggested in that memorandum. That is, a man will only be able to go to the commission once with his claim, and if his claim is not granted then he cannot go back to the commission, his next step is to the quorum and then to the Appeal Court. This in my humble opinion really brings back into legislation what was termed some years ago the automatic reference, and which nearly wrecked the tribunal, the Appeal Court and everything else. I think that if the opinion of Colonel Topp were obtained he would tell you that the effect of the automatic reference was actually to flood his office and the tribunals out of existence. For many years past, and in saying this I am not trying unduly to laud the activities of the Legion, but for many years past, in fact for sixteen years past, the Legion has operated a service bureau. The greater portion of the work of the bureau has had to do with pension cases. The procedure has been direct negotiation with the Board of Pension Commissioners, and our objective has been if possible to obtain success at that point for two reasons; one being because if you can obtain success in a court of first instance you save your client a lot of trouble in going through the other parts of the machinery; secondly, all these cases that you establish in the court of first instance you knock out of the other part of the machinery thereby preventing it from becoming clogged and congested. And, now I tell the committee, I have prepared a statement here a copy of which with your permission I will give if your committee so desire, which shows that from July 1, 1930, to February 29, 1933, a period of six years all but a few months, the Legion service bureau has dealt with a total of 20,293 individual cases of which we estimate 11,700 odd have had to do with pensions. Of that 11,700 odd cases the Legion has succeeded in securing a full and complete adjustment in 4,684; which you will find works out at an average of over 700 per year. These are favourable adjustments. Those are cases which have been established in the court of first instance, the Pension Commission, and have been kept away entirely from the other part of the pension adjustment machinery.

*By the Chairman:*

Q. Do you say that in your 11,700 odd cases dealt with 4,684 odd have resulted in adjustments by the Pension Commission, or did some of them come

[Mr. J. R. Bowler.]

to the quorums from elsewhere?—A. I point that out in the early part of the memorandum, "excepting only in very special instances the bureau does not undertake the presentation of cases to the Pensions Quorum. We have not got the facilities, and in any case the government provided facilities for that purpose. Our work has been direct with the commission. And I submit with all respect that the success of the work and the substantial volume of cases which has been taken off the ordinary routine of the machinery well justifies its continuance.

Q. You have 6,000 hanging fire now?—A. We have 6,000 pension appeals on hand at the present time. Of course, these are cases of all kinds, sorts and descriptions. They are not necessarily all entitlement cases.

Q. But your 4,000 odd were all entitlement cases?—A. They are subdivided.

Q. Only 2,019 entitlement cases?—A. Yes; of the adjustments during the period referred to 2,019 were entitlement cases; that is, attributability or aggravation; dependency, 672; that is, such as parents, widows, widowed mothers, children etc., retroactive pensions, 896; increased assessment 659; re-instatement where final payment has been accepted, on the grounds of increased disability which you have to show in each case, 324; and miscellaneous, including helplessness, clothing allowance, et cetera, 114; that makes a total of 4,684.

*By Mr. Reid:*

Q. Have applications in these classes been increasing?—A. They have been pretty constant. There is no evidence of a decrease in the work. If claims are limited in the future to service in France only that will probably have some effect on our work.

Mr. HAMILTON: With reference to section 52; is the objection to eliminating the reconsideration and necessitating a review of the application?

The CHAIRMAN: There is no objection to providing additional evidence. The practice has been that after they are turned down by the commission once they get a certificate of some kind which they call additional evidence. A case might be held up five years in that way. My object, and it is entirely my own, is to try and clean up these cases. What happens now is that when a man is turned down he says, well I might as well have another try at it any day. The result is that the case drags on for another year or so and they come to think that in that way they may get before the commission when it is feeling more inclined to give favourable consideration to their application.

WITNESS: I think there is no suggestion that the Legion follows that procedure merely for the purpose of getting things easier.

The CHAIRMAN: No, no.

WITNESS: We either establish our case before the commission, or if we do not our claimant knows that everything possible has been done on it that can be done.

Mr. BETTS: Under the present machinery there is just the one chance for additional evidence to be submitted, isn't there?

The CHAIRMAN: No, no. There are cases which have been there since 1919. If a man is not satisfied with a decision he says, if I go to a quorum it will give finality to it. He keeps on hammering away, through the service bureau or somebody else. That is one thing I would like to get rid of. I say that we are only holding a man back without doing any good to anybody. Not only that but we are cluttering up the machinery, cluttering up the quorums; and if the committee is of the same opinion as I am we will create enough quorums to hear these cases and settle them. One of the big complaints is that an applicant has his case before the Pension Commission all this time and he can't get action on it. Every time it is turned down he sends in another piece of evidence. I want him to go to the quorum and get all his evidence in



so that we can get some finality somewhere and not keep a man hoping for twenty years.

WITNESS: With all deference, Mr. Chairman, I would point out that what is proposed now is exactly what was done in 1930.

The CHAIRMAN: Oh no, in 1930 we provided that if a man was turned down, automatically then, without his permission or anything else—and Sir Eugène Fiset will remember this—he had a right to appeal; so, without his permission it automatically went to the tribunal. But this is not the case at all. He will have to take some action now if he is turned down by the commission to go before the tribunal. The reason for the cluttering up was that we made so many appeals to the tribunals. The minute the commission refused a pension it was sent on to the tribunal, and that is what cluttered the machinery up. We had a reason for making these automatic appeals. We were told that a great many people were ignorant of the provisions of the Pensions Act. They would be more ignorant of the provision of this new Act. Therefore, we should provide them with the chance to go to the tribunal if they wanted to. But in cases like these, there are some 6,000 of them, I would suggest that a great many have been before the commission for a year or more. Would you admit that?

WITNESS: A great many of them, yes.

The CHAIRMAN: And they have had every chance of being considered. If a man has been turned down by the commission finally if he wants to go to a quorum he is entitled to do so. We do not force him to go. All we are trying to do in this thing is to clean up what is now before the Pensions Board, and to clean up these 10,000 odd cases that are still hanging on. A large number of these cases Mr. Bowler himself will admit have no merit whatsoever. Let them come to some finality.

WITNESS: I could not tell you about the 6,000 cases we have now because I have not gone through them personally.

The CHAIRMAN: What is the use of creating a more or less judicial body like this Appeal Court if a man will deliberately decline to take advantage of it. We might as well get back to the old pension commission system.

*By Mr. Betts:*

Q. Might I ask what Major Bowler would think of the suggestion that after an applicant has been turned down by the commission he should have as he now has the right to notify the commission within 90 days of his intention to produce new evidence, once only. In other words, give him one more crack at the commission instead of an indefinite number as is the case at present?—A. Might I speak of my personal experience in the matter? For six years, as some people in this room well know, I was pension advocate for the Province of Manitoba. My duty was to assist claimants, to see what their claims were about, to see that the cases were properly prepared and to see that they were submitted in the best possible way. At that time I had nothing in the world to do with the Legion. I submitted my cases first to the Pension Commission, and I stuck with the commission as long as I thought there was a possibility of satisfying them. I thought I owed that duty to my client, because that is the best way and the quickest way to establish his rights if he has any. It was only when I was quite satisfied that no further progress could be made with the commission that I listed my case for the Appeal Court, and I argued it there.

The CHAIRMAN: As a matter of fact I think, Major Bowler, you or at least some representative of the Legion objected very strongly to the Pension Tribunals, in both these Acts, being created, because they preferred to argue the matter out with the commission. Was it you, or Mr. Barrow?

WITNESS: I always thought that the commission should be the court where you go in the first instance, and you remain there as long as you have a chance to succeed. After that you should have the right to an appeal of some sort.

[Mr. J. R. Bowler.]

*By Mr. Reid:*

Q. Have you any views to express as to allowing witnesses other than pensions advocates, such as medical men, appearing before a board on behalf of an applicant. I speak from experience, knowing that when you have a medical man sitting on the board and a layman presenting the case that layman is lost when it comes to talking in medical terms. My view is that it might be desirable to provide for an applicant having the advice of a medical man in presenting his claim?—A. Do you mean, to assist him in presenting his case?

Q. Yes, the Pensions Advocate is provided without cost; do you think the applicant should have the benefit of medical opinion in the same manner, free of charge?—A. Yes. I think that has been considered. I think the attitude taken by the various governments which have dealt with the matter is that the government would provide counsel free of charge, but if the applicant wanted anybody else he would have to bear the cost himself. I do not think you could quarrel with that system very much.

*By Mr. Mulock:*

Q. Would they pay much attention to outside doctors, even if they were specialists?—A. I do not wish to express an opinion on that.

Mr. Mutch: They would not take a doctor's opinion as evidence, unless he had documents to support it.

Mr. Betts: To get back to this undesirable practice of hammering away at the commission; might that practice not have originated because of the personnel and the work of the respective bodies, the commission and the Appeal Court? I mean to say, leaving all personal consideration out of the picture, if it can be done, if this practice can be done away with through the arrangement proposed will it not be desirable from the standpoint of the men themselves that there should be some point of finality with the commission, rather than creating in the mind of the applicant the hope that by hammering away through his M.P. and everybody else he might finally break down the resistance of the commission.

The CHAIRMAN: That is the very thing I am trying to get away from. I do not know whether or not it can be done, but I am in hopes that we can get away from that.

Witness: Might I suggest that you examine Mr. Hale and Captain Gilman very carefully on this subject because they have both had years and years of experience; and perhaps the commission also could give you some information. I think consideration should also be given to the question of the extent to which adjustment work carried out in the manner which I have indicated to you relieves the administrative burden of the Pensions Commission and the department.

The CHAIRMAN: This would not prevent your bureau from doing adjustment work.

Witness: How could you go back? That is the question.

The CHAIRMAN: You would not have to go back, you would have your cases prepared the first time. What is the use of coming unless your case is fully prepared. The attitude has been, "we will take a chance and if we get away with it all right, we will always have another chance of preparing new evidence as fast as the case is turned down." That is what is done now. In many instances cases are not prepared at all, it is merely presented on the odd chance that it may succeed, but if the commission does not grant the application the attitude is, "all right we will get you another piece of evidence"; and they keep on getting these pieces of evidence. What I want to do is to bring the thing to finality.

Witness: I think, Mr. Chairman, it is really a matter of discussing the case with the Pensions Commission to see if it has possibilities, to see if there are in existence facts which can be obtained which will complete the case.

Mr. BETTS: From the standpoint of any litigation you should give a man an unlimited field in so far as the producing of new evidence is concerned. There should be no finality to that.

WITNESS: This is not a procedure which is forced on the commission. The procedure is not that an adjustment officer will come to the commission and demand the right to submit evidence from time to time, and so on and so forth. This concerns co-operative negotiations with the commission in an effort to get the case disposed of in one way or another.

The CHAIRMAN: But, it cannot go to the quorums. A man can keep his case from going to a quorum so long as he can bring forward any new evidence. That is the situation now.

WITNESS: I would point out that it is not to his advantage to keep his case in the commission when he realizes that there is no hope there. That is the time he goes to the quorum. Neither the Legion nor any soldier organization would encourage a man to keep his case before the committee just for the sake of keeping it there.

Mr. BETTS: I am not so sure about that, because as a lawyer I know that there are many people who will pay me a good deal of money just to keep a case in litigation; and it does not matter how much you tell them they should not do that, there is a litigious consciousness. I do not say it exists among soldiers.

The CHAIRMAN: They say, after the next election I will have Bill Jones in, he is a good fellow, I can get him to fix this commission.

Mr. MUTCH: That could be cured very quickly.

Mr. HAMILTON: To what is this lack of preparation attributable? What I have in mind is that there are lots of fellows who are not in any way capable of preparing anything, and they come before the tribunal I imagine without much idea of what they are going before, or what they are there for, other than that they want a pension.

The CHAIRMAN: I think perhaps we had better have the pension advocates in to tell us what preparation they do make. It is their duty to prepare cases.

Mr. HAMILTON: All these original pension applications go through trained hands before they go to the board, do they?

The CHAIRMAN: Not so much in the case of applications to the commission. I don't suppose very many applications to the commission go through pensions advocates. They usually come direct to the commission and the commission deals with them.

Mr. HAMILTON: I can see where there would be a lot of difficulties there.

The CHAIRMAN: What a man wants is just to get a hearing, and then he thinks that by writing letters to somebody here in Ottawa for four or five years he will get somewhere. He could not do that before any judicial body. He would have to have his case complete.

Mr. HAMILTON: He is probably not in a very good position to produce evidence.

The CHAIRMAN: The advocates see that he has his evidence prepared for a quorum. I do not know that they do for the commission.

Sir EUGÈNE Fiset: You mean, some advocates.

The CHAIRMAN: That is what they are paid for.

WITNESS: I am not quite certain but I think that once an advocate gets a case he considers it his function to prepare it and present it to the quorum.

The CHAIRMAN: I think so too.

WITNESS: The Legion's part in that is that when we get a case we consider it our function to prepare it and present it.

[Mr. J. R. Bowler.]



Mr. HAMILTON: Perhaps if we were to try finality we might get somewhere, Mr. Chairman.

The CHAIRMAN: That is what I am thinking.

WITNESS: I think perhaps I have said enough on that subject. I have only one more item to deal with. I would like the commission to bear in mind that we regard the question of the submission of the case to the Pension Commission as very very serious, and if necessary would be glad to appear before the committee again before you make up your mind.

Section 23, which has to do with the calling of witnesses is important, and in our memorandum we say:—

In the great majority of cases the responsibility of calling witnesses rests upon an officer of the crown. The effect of this would virtually be to make it impossible for him to call witnesses except with the possibility that he would be required to pay their expenses himself.

No doubt the committee will deal with that fully.

The CHAIRMAN: The point there is that it should be left to the quorum to decide whether witnesses are necessary or not. In a lot of cases a man wants to call everyone who served in the battalion with him, and all his neighbours.

Mr. MUTCH: How are they going to decide that before they hear him?

The CHAIRMAN: They decide it after they hear him. There has been the tendency for applicants to call in everybody from the next door neighbours down to the men who served with them to prove the same point time and again. In an ordinary court of law they would not be allowed to do that.

WITNESS: I think the point here is that if a responsible officer of the crown such as a pensions advocate decides that a witness should be called then such witnesses ought to be paid. If the pensions advocate is wrong then he should be disciplined within the administration.

The CHAIRMAN: There may be something in that. I think I would rather leave it to the courts to decide.

Section 26. That appears on page 14. That has to do with Appeal Court procedure. There is something here by General Ross: "It is suggested that the principle of affidavit evidence in the appeal division is unsound." I do not need to go into that, I leave it with the committee.

Now, the last one is on page 17, section 72. I imagine the Legion does regard that with some apprehension. This has to do with access to documents and records of the department. The provisions previously enforced are on the opposite page, and in effect it is that anyone named by the pensioner and satisfactory to the department may have access to all records. That is a statutory right placed there I think many years ago, as a result I believe of the Robson commission in the first instance. The new provision would take that away, it reads as follows:—

72. For the purpose only of insuring the proper preparation and presentation of any application, the department may from time to time make regulations designating the individuals who may be permitted to have access to all records of the department and to all matters considered by the Board of Pension Commissioners for Canada, by the Pension Tribunal or the Commission or a Quorum thereof in disposing of any application.

In other words, the statutory right which existed before now disappears, and power is vested in the department to make regulations.

The CHAIRMAN: I think we will have to. There have been abuses in the use of files to such an extent that it is pretty hard now to get outside evidence; that is, reputable medical men outside do not want to make a state-

ment that such and such a man is suffering from a mental disease or venereal and so on and so forth, and have it handed around, and the man concerned having access to it. I recall that we widened it in 1930. I drafted it. I widened it too much. Now we want to restrict it a little bit. It is a pretty difficult thing to deal with, and in some of the provinces the people in charge of mental institutions will no longer give us certificates or reports. We want to be fair, and if we want to reach a compromise I think perhaps we can.

WITNESS: I think we can. I can readily agree that there are many cases where it is not desirable that an applicant should see his own file. I am quite prepared to subscribe to the principle, but if an applicant is to have a representative at all I think that representative or advocate should have access to every document which is possessed by the other side. He should have full and complete discovery.

The CHAIRMAN: There is only one objection to that. There has grown up in Canada a class of what I might call pension agitators, people who have no legal training and who are not connected with any association or anything else who keep going around among ex-soldiers and say, I will take up your case. I would like in some cases to keep fellows of this type from having access to the files. I know certain chaps who do nothing but agitate; and they go over to a man and say, do you know what doctor so-and-so said about you? This is what he said, I got that from your file. Unauthorized persons, or persons who should not be authorized to deal with files should be kept out. I am not sure as to just how we should draft that section but I think we are all agreed to it in principle.

Sir EUGÈNE Fiset: At the present time there is no objection to a file being examined in the presence of an officer of the department?

The CHAIRMAN: No.

Sir EUGÈNE Fiset: Why not simplify the whole thing in that way?

The CHAIRMAN: That would not do; because, after all, say the Legion wants to prepare a case, wants to have access to the files; we cannot have an officer of the department standing over Major Bowler all the time seeing that he does not abstract something.

Mr. MUTCH: Are there many cases of that kind where documents are affected?

The CHAIRMAN: I do not think so.

Mr. MUTCH: The only two charges I have heard are recent ones of accusing the department of abstracting documents.

WITNESS: I would agree with the chairman that the department should have some control as to who are entitled to have the documents. The legion would not like to see the specific statutory provisions taken out.

The committee adjourned to meet at 4 o'clock, Wednesday, April 22, 1936.













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Canada, Union and Return  
Problems, Special Com  
SESSION 1936

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(HOUSE OF COMMONS)

SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

WEDNESDAY, APRIL 22, 1936.

## WITNESSES:

Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire Service League

Captain E. Browne-Wilkinson, Chairman of the Dominion Legislative Committee, Army and Navy Veterans in Canada.

Captain C. P. Gilman, M.C., Dominion Adjustment Officer, Army and Navy Veterans in Canada.

OTTAWA

J. O. PATENAUDE, I.S.O.,

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936



## MINUTES OF PROCEEDINGS

WEDNESDAY, April 22, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4 o'clock, p.m.; Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Beaubier, Betts, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Lapointe (*Matapedia-Matane*), Lennard, Macdonald (*Brantford City*), MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), Streight, Thorson and Tucker.—23.

Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire Service League was called.

Mr. Bowler filed a synopsis from judgments of the Federal Appeal Court re "Meritorious Clause."

Witness retired.

Captain E. Browne-Wilkinson, Chairman of the Dominion Legislative Committee, Army and Navy Veterans in Canada, was called, examined and retired.

Captain C. P. Gilman, M.C., Dominion Adjustment Officer, Army and Navy Veterans in Canada, was called and examined.

The Chairman had to leave the meeting so asked Sir Eugène Fiset to preside.

At 5.55 the witness retired and the Committee adjourned to meet again Thursday, April 23rd, at 4 o'clock, p.m.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

April 22, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 4 o'clock p.m., Hon. C. G. Power, the Chairman, presiding.

The CHAIRMAN: Order, please.

Mr. BOWLER: Mr. Chairman, I have something here which I would like to present if I may.

The CHAIRMAN: All right, Major Bowler.

Mr. J. R. BOWLER, called.

Mr. BOWLER: Mr. Chairman and members of the committee: In my evidence yesterday I referred to what I thought was a judgment of the Pension Appeal Court outlining their conception of what was intended by the meritorious clause. I find that there is no one judgment but that the Pension Commission prepared a synopsis drawn from several judgments of the court, in which they comment on the meritorious clause. If you like I will file that as an exhibit.

The CHAIRMAN: There does not seem to be a great deal in this: "The fact that a soldier is granted a decoration is evidence of special merit, but not proof of special merit such as should be required by the Act." That is just one decision.

Another decision: "Death due to pure accident is not a circumstance for special merit."

These are just citations from certain decisions which have been given, and I do not think you could say that was the jurisprudence.

Here is another one: "Suicide other than due to insanity cannot be regarded as meritorious." I suppose in that particular case the court said, it is just too bad this man committed suicide but we do not think that is a reason for making a meritorious award.

Mr. REID: That would rule out all cases of suicide.

The CHAIRMAN: No, I don't think so at all. "Suicide other than due to insanity cannot be regarded as meritorious;" that is to say, I think we are all agreed with that, that suicide is not meritorious. It carries a punishment under the criminal code. I do not think we could call this a line of conduct for them to follow.

Mr. MUTCH: If they rejected all suicide other than insanity that becomes a regulation.

The CHAIRMAN: No, that is not a regulation. These are just quotations from some of their decisions.

Sir EUGÈNE Fiset: Have these decisions been compiled in the form of regulations for the guidance of the commission? That is what we should know.

The CHAIRMAN: Oh, no.

Sir EUGÈNE Fiset: These are only quotations?

The CHAIRMAN: These are quotations given to Mr. Bowler by the departmental solicitor. They are citations from a number of decisions in each case. That is what the meritorious clause is for, each case is taken up on its merits.

Mr. MUTCH: That decision would have the effect of ruling out all suicide excepting cases of unsound mind.

The CHAIRMAN: I don't think so. Another one says: "Economic or financial condition of the claimant is not sufficient grounds for entertaining an application for compassionate pension." We are all agreed with that. "although deceased gave splendid service, the service does not appear to be possible of classification as specially meritorious as compared with that of a vast number of former members of the forces"—I imagine that is quite simple. I do not know that this will help us, provided that it is well understood that this is not a series of regulations dealing with meritorious cases.

WITNESS: I produced the document because it is the document which I had in mind when giving my evidence yesterday. It is not precisely what I thought it was; on the other hand, it was handed to me by the chairman of the Pension Commission and I am of the opinion that they regard it in some way or other as a guide in procedure. If they were called up they could be questioned on the point and the committee could find out.

Mr. GREEN: You were going to give us some idea as to the number of awards which have been made under the meritorious clause.

The CHAIRMAN: Yes. We will have that information for you later. It is not ready yet.

We now have Captain Browne-Wilkinson.

The witness retired.

Captain E. BROWNE-WILKINSON, Chairman Dominion Legislative Committee, Army and Navy Veterans in Canada, called:

The CHAIRMAN: All right, Mr. Wilkinson.

WITNESS: Mr. Chairman and gentlemen: first of all I want to correct what is possibly a misapprehension or a misunderstanding occasioned by what I see on page 2 of the first report of your proceedings where General Ross states that he had associated with him certain other associations. In this connection he indicated the Army and Navy Veterans of Canada. Unfortunately, owing to sickness and distance, we were unable to be present at some of the initial meetings. Colonel Wood was sick in bed, and Captain Gilman was and still should be in hospital, sick. I was in Winnipeg. While we were not able before to do so we now visibly associate ourselves with their presentation, just as has been the case in other years.

The brief of the Army and Navy Veterans in Canada, copies of which are available for anybody who has not already got one, is divided into eight portions. I am calling Captain Gilman first, he is our chief adjustment officer, to deal with certain phases on page three—that deals with the resolutions passed by our convention in Vancouver in 1934. He will also deal with the material on page four, and the two last ones, seven and eight, dealing with neuresthenics and diseases of insidious onset; and the other one dealing with medical treatment. Finally he will deal with our observations on Bill 28, the last two pages of the brief. When Capt. Gilman has terminated I am prepared to present the rest of the brief to the Committee.

I will ask you to call Captain Gilman.

CAPTAIN C. P. GILMAN, M.C., Dominion Adjustment Officer, Army and Navy Veterans in Canada, called:

*By the Chairman:*

Q. I would like to have your observations on Bill 28, first, if it does not make any difference to the Committee. I have to run away in a very few minutes. I would like to have Captain Gilman deal with Bill 28, first, as we have not

[Captain C. P. Gilman, M.C.]



had very much on that as yet. I would like to know what he thinks about it.—A. I will be very glad to do the best I can on that. I also would like to get away to-night.

Page 28 of our brief: Bill 28—an Act to assist towards the employment of former members of the forces.

We agree with the bill in general, but we are seized of the fact that a large part of the ex-soldier problem is part and parcel of the general problem. It is, therefore, apparent that there is need for classification. Classification would bring about understanding as to the nature and extent of the problem. We believe that information should be obtained as to the approximate number of, (1) fit men; (2) unfit men, and their capabilities; and (3) unemployables, who must be taken care of.

Clause 6 of the bill deals with schemes to be studied by the commission: (a) It is suggested by the Army and Navy Veterans in Canada, Adjustment Bureau, (as has already been suggested by them to the Hyndman Commission) that a quota of 15 per cent, of returned men should be obligatory on all government contracts.

*By Mr. Brooks:*

Q. Why do you mention that percentage?—A. We worked out the percentage of returned men as against the percentage of civilians among the unemployed in the general population. I will try to send up our submission to the Hyndman Commission which deals with that in detail.

(b) We submit that extreme care should be taken in the study of suggestion 6(d) of the Bill, and that intimate touch be kept with the general unemployment Commission that is to be set up; and for the following reasons: (1) Most of the schemes suggested in clause 6 can only be applied on a bare subsistence basis; (2) many men who might be placed on such schemes because of their need to-day would undoubtedly leave same upon any appreciable revival of trade conditions; and (3) unless many factors, such as the capabilities of the man himself, and also the character and capabilities of the man's wife, be studied, there would be grave danger of failure in a number of these schemes.

Withal, we believe that by a very careful survey of the whole situation, plans can be formulated that would ameliorate the condition of the disabled man to-day, and also of the fit man. Our thought is that we neither desire the returned man to be in an over-privileged class, not an under-privileged class. We desire only that he should be adequately taken care of.

The Army and Navy Veterans in Canada, Adjustment Service, are not so impressed with the age group of veterans to-day—should work become available—as they are in the question of the physical ability of the men to engage in remunerative labour. We are convinced that a great many of the ex-soldiers—even at the age of 45 or 47—are capable of a good days' work, and desire same, at an equal wage rate as the civilian.

The problem comes down to: (1) The finding of work for those who are fit and capable of same; (2) the provision of suitable work for those who are handicapped; (3) the care of those that are unemployable and incapable of work. This, then, we believe, would be the duty of the commission. We refrain from discussing unemployment insurance, although we thoroughly believe in same, for reasons that will be readily understood.

In closing we again reiterate in making this latter submission we have not lost sight of the problem of the youth of to-day.

I think that is all. Captain Browe-Wilkinson will have something more to say. That is my reflection on bill 28.

*By the Chairman:*

Q. Have you any amendments to suggest to the bill at all?—A. I think I need hardly answer that question. A commission is to be set up to study this matter. It is hardly in our province, it is rather something for the commission to decide.

Probably Captain Wilkinson will speak to you about the question of relief. The suggestion has been made that they are to make a new basic rate for relief. I notice that the report states that the same has been carried into effect. What I would like to know, and I do not know it yet, is why when they say that this is put into effect they have reduced the relief in accordance with that recommendation; because, that new basic rate in a number of cases is less than the basic rate which the man gets to-day. I make that observation because I think it is worthy of inquiry from the department.

Q. What I am trying to get at is, have you any suggestion to make by way of amendment to this bill 28?—A. No, sir. Mr. Browne-Wilkinson may have thought.

Q. So far as you know this covers the ground; the commission is given sufficient power to deal with the problem, and so on?—A. Oh, yes.

Mr. CAMERON: Might I refer to that clause (a) on the next to the last page of this brief where a quota of 15 per cent is suggested. I understand that about 10,000 single men from the relief camps are being put on railway work. They are under government contract. Would they be expected to include 15 per cent returned men on that work?

The CHAIRMAN: I do not think we could deal with that under this bill.

Mr. CAMERON: It is only a recommendation.

The CHAIRMAN: I don't know why we should not make a recommendation from the committee.

Mr. CAMERON: That is what I thought.

The CHAIRMAN: I do not see how we can do it in the bill setting up the commission to study the unemployment situation. I do not think we could provide in that that on all government work in Canada there should be 15 per cent returned men. It would be kind of out of place in that particular bill I should imagine. However, we could discuss that when we come to make our report.

Mr. GREEN: Has there never been any survey made showing the number of returned men in relation to the unemployed?

The CHAIRMAN: The only survey I know of is that which was made by the Canadian Legion, and that is pretty sketchy except in certain cities. I do not think the Legion will criticize me for saying that. Isn't that right, Mr. Bowler; it only took in certain places?

Mr. BOWLER: It was necessarily incomplete, although it is sufficient to show that a real problem exists.

The CHAIRMAN: Oh, yes, In Saskatoon they did make a distinction between fit and unfit men.

Mr. BOWLER: Yes, they did.

The CHAIRMAN: But in so far as the general situation is concerned it is sketchy.

Mr. BOWLER: Yes. A copy of that survey has been filed.

Mr. HAMILTON: Would there be any purpose in putting a general indication of what was intended in the preamble?

The CHAIRMAN: What is that?

[Captain C. P. Gilman, M.C.]

Mr. HAMILTON: With reference to the employment of returned men on these different contracts; specifying that a certain percentage of returned men should be employed.

The CHAIRMAN: We have certain legislation at present which defines the preferences for returned soldiers. By this bill to assist towards the employment of former members of the forces we are setting up a commission to do that. I think any instructions to the commission—or, rather, it would not be to the commission in this case; it would be to the government, to the commission, to the railroads—would be a little bit out of place in a bill of this kind. You might put it in somewhere else if you liked.

Mr. MACDONALD: It might be an instruction to the commission after they sit.

The CHAIRMAN: We might recommend in our report that that should be done.

The WITNESS: That is what we have in mind, that it is something for the commission to consider.

Mr. BETTS: It would not be beyond the competence of this committee to recommend to the House that something of that sort should be done.

The CHAIRMAN: My objection is that I think it would be out of place in this commission bill.

Mr. BETTS: So do I.

The CHAIRMAN: We can make any recommendation outside of the legislation that we like.

Mr. GREEN: The intention of this bill is that there should be an investigation made such as that urged by the Army and Navy Veterans.

The CHAIRMAN: One of the first things they must do is to classify the ex-soldiers who we have never classified.

Mr. GREEN: There is nothing referring to that in the bill.

The CHAIRMAN: Oh, I think so.

Sir EUGÈNE Fiset: It gives power to appoint a commission to undertake the work.

The CHAIRMAN: The commission has to do the work. That is what the commission is for.

WITNESS: These are suggestions which we hope will be put before the commission when it is working.

The CHAIRMAN: The commission should make that classification. That is what I hope they will do.

Mr. GREEN: Where is that set out in the bill?

Sir EUGÈNE Fiset: What can easily be done is that this committee here should pass a resolution that the proposals submitted by the Army and Navy Veterans be referred to that commission when organized for consideration. I think that is what you have in mind.

WITNESS: Yes.

Mr. GREEN: The point is that section 6 of the proposed bill sets out what the commission is to do, and that does not include the making of an investigation of this kind.

The CHAIRMAN: The section reads:—

The commission shall,

(a) Carry out as soon as possible an investigation into the existing facilities in connection with employment of veterans;



(b) Investigate and report to the minister upon proposals leading to the establishment of effective agencies to supplement the assistance now granted so as to provide for a speedy absorption of as many veterans as possible into some form of work;

(c) Recommend to the minister effective means of establishing social and community centers for rehabilitation of veterans;

(d) Investigate and report to the minister, and make recommendations as to the effective carrying out of means to provide employment for veterans and more particularly, but without limiting the foregoing provision, the following:—

And it details ten things which they are to do. However, as it is not there we will amend the bill and put it in. The first job they will have to undertake will be this classification.

Mr. MACNEIL: I am somewhat concerned about this point, that no provision is made for the classification of statistics. Should we not make some recommendation that would enable the National Employment Commission while conducting a general national survey to provide the Veterans' Assistance Commission with the necessary data?

The CHAIRMAN: The commission has authority to cooperate with any other commission or department of the government.

Mr. THORSON: A recommendation may have to be made from this committee to the National Employment Commission.

The CHAIRMAN: We could add a section to the bill on classification.

Mr. THORSON: The suggestion is that this committee might possibly recommend to the National Employment Commission the desirability of making a classification of returned men while they are making their general classification of unemployed persons. In doing that we would avoid duplication as the one classification would serve both purposes.

The CHAIRMAN: Yes. I think we can do that.

Sir EUGÈNE Fiset: I am under the impression that when the minister explained the bill to the House he intended that.

Mr. GREEN: It is quite clear that the intention is that there shall be provision under section 6 for that.

The CHAIRMAN: It should be under some section or other. We will amend the bill before reporting it back to the House so as to make that perfectly clear; the first job of the commission will be that of classification. As to what Mr. Thorson says about cooperation with the National Unemployment Commission, that power is already in the bill. We should specify that they should co-ordinate their efforts with regard to classification, and the like.

Mr. THORSON: That might be provided for in the preamble.

The CHAIRMAN: I have the idea that this commission should keep special files and special classifications for ex-soldiers.

Mr. THORSON: Yes.

The CHAIRMAN: If they can get what they want from the general employment commission, all right; but if not they should have the power to go out and get it for themselves. For instance, they could come over for the department and get whatever information we have there with regard to pensioners. They could also go to a great many of the municipalities which have segregated the returned soldiers from the others, and so on. As a matter of fact I am getting what I can now by voluntary effort, and by feeling around through some of the larger municipalities I am trying to keep track of where the unemployed returned soldiers are. We ought to know just how many are on relief, and so on and so forth. They all promised a couple of months ago, some of the western  
[Captain C. P. Gilman, M.C.]

cities particularly, to give us what figures they had; and I think that is on the way now. We will have that much. Certainly we will put something in the bill to take of this point. I will be very glad if any of the members of the committee would try their hand at drafting an amendment for this purpose.

Mr. MACDONALD: I understand that the forms from the general employment commission are now out.

The CHAIRMAN: Some of them have been out for some time, I think.

Mr. MACDONALD: I think it is the peculiar function of this committee to get that information itself, quite apart from anybody else.

Mr. THORSON: If we can get it from the National Employment Commission it will be easier.

The CHAIRMAN: We are going to get it wherever we can.

*By the Chairman:*

Q. Have you anything else on this bill?—A. No, sir; Mr. Browne-Wilkinson will speak on some other matters in connection with it.

The CHAIRMAN: Then, gentlemen, with you permission; I have to go now. I will ask Sir Eugene Fiset to take the chair.

Sir EUGENE Fiset, (acting chairman).

WITNESS: Mr. Chairman, the next matter is resolution 9 which you will find at page 3 of this brief. We are here chiefly to see that the returned soldier gets a square deal. We know very well that some of them are not getting that; and our attempt to-day is to try to remove some of the difficulties the returned soldier is up against. We know that the matter depends mainly on the preparation of cases; and, we know that cases are not properly prepared; that a man has not the opportunities or the ability to obtain evidence for himself; and it is not thought to be the duty of the court or the quorums to consider his case to a finality medically speaking; and so at the Vancouver convention we passed the following resolution:—

Resolution 9: That we request the Dominion Government to consider the calling together of eminent medical specialists from different parts of Canada to consider the disabilities of neurasthenia, and diseases of insidious onset, in an effort to obtain a reasonable conception as to the service connection of these disabilities; and further that a majority of the specialists so assembled must be men who understand from personal experience what "war" means; and further that we would request that representatives of the Army and Navy Veterans in Canada be allowed to present the problem to the consultant board for its consideration.

Now, while I was in hospital I thought perhaps I might not be able to get there so I wrote down what was in my mind. One can often do better by writing down what they think in such a case because you have more time and you can express yourself better. This is what I have written:—

Section 73 (benefit of doubt clause) reads as follows:—

73. Notwithstanding anything in this Act, on any application for pension the applicant shall be entitled to the benefit of the doubt, which shall mean that it shall not be necessary for him to adduce conclusive proof of his right to the pension applied for, but the body adjudicating on the claim shall be entitled to draw and shall draw from all the circumstances of the case, the evidence adduced and medical opinions, all reasonable inferences in favour of the applicant.

All through the years since the war there has been a general recognition of the fact that a number of men are refused pension because of the impossibility of securing absolute proof that their disabilities were either "incurred on" or were "attributable to" service.

The difficulties present themselves because of:—

1. Lack of understanding of effects of Front Line service. In the rush of demobilization examinations were of a very cursory nature. In many instances, there was not a proper appreciation of the fact that "Front Line" service might leave effects which would not vanish after a reasonable period on return to civil life, and so the man's condition was not truly explored. Incipient disease was not discovered. Generally the questioning "Have you any complaints" sufficed.

2. *Lack of Records.*—Records in the case of "Front Line" men in many cases are extremely faulty. It is well understood that many men were kept in billets and not sent to dressing stations and so no records of sickness were kept. Again, some records were apparently lost. It is also true that many men carried on in the "line" with rheumatism, stomach and other troubles. This is undeniable.

(NOTE.—Before going to France a man was examined many times to establish his "fitness". On discharge unless he was apparently ill his fitness was generally accepted. It is interesting to note how many discharged as "fit" were afterwards proven to be "unfit" and accepted for pension.)

2. (a) It is also true that the condition of many men who were hospitalized was not correctly diagnosed. This, of course, was to be expected. Medical officers were overworked, and sufficient attention could not be given to the individual case. Again, medical knowledge had not then advanced to its present stage. Also, we would observe, the urge was to return men to the "line" as quickly as possible.

3. It is undoubtedly true that men who carried on splendidly in the army despite handicaps, carried on just as splendidly and uncomplainingly on return. Just as other people thought, so the ex-serviceman thought, that their weaknesses would vanish under home conditions. They had ample opportunity to take care of themselves immediately on return due to the fact that for some nine months they received war service gratuities. They endeavoured to re-establish themselves in civil life and gave no thought to pensions.

4. It has also been demonstrated that men went to private doctors with their troubles rather than to the department, on return from overseas. They did it because they had more faith in private physicians, believing that departmental treatment was then a "chain store" proposition if one was not apparently so ill that they were undoubtedly hospital cases. As men have stated, "wouldn't it be rotten if I went to the department and there was nothing the matter with me". Unfortunately, however, many medical men treated the returned men without charge and kept no record. It is a disturbing thought that the importance of keeping "records" by medical men years ago was not generally recognized.

These facts, with others, were considered by the parliamentary committee, which recommended the inclusion of section 73 of the Pension Act, and in this "benefit of the doubt clause" they drew attention to apparent weaknesses in the adjudication of pension. They refer to "all the circumstances of the case, the evidence adduced and medical opinions", and state that "all reasonable inferences shall be drawn in favour of the applicant", remembering "that it shall not be necessary for him (the man) to adduce conclusive proof of his right to the pension applied for."

#### *A. Attributability to Service.*

The chief difficulty, then, is to understand just what is meant by the words "attributable to service". Now, we want to say first that we believe that... an understanding of the words "attributable to service" can only be realized by men who understand intelligently what actual "war" means; the conditions under which a man served and the general difficulties which confronted the men



in the line. This is why we are so insistent that soldier matters should, finally, only be adjudged by men who have had actual war experience. They would probably be and are the most difficult men to satisfy if they had any suspicion that a man was trying to get something he had not deserved. On the other hand, any civilian might err, either on the side of undue leniency, because of his lack of understanding, or because of that same lack of understanding, treat of the man's case from a purely cold legal standpoint of record and so be unduly unjust.

The ex-soldier does not desire either of these conditions to prevail. The difficulty is to be able to strike a mean between over-lenieny and injustice. Now, we know that this was the intention of the parliamentary committee, and it asked that the man's case should be considered in a complete and just manner.

The intention undoubtedly was, and is, to reckon that service took its toll of the stamina of the man who served in a theatre of war. It is hardly necessary for me to enlarge on this matter except to say that parliament recognized this fact in no uncertain way when it provided us with the War Veteran's Allowance Act, to take care of those who were prematurely aged, etc.

This, of course, is part of the question of the "circumstances of the case." We believe that the "circumstances of the case" must mean the nature of the service the man saw, the conditions under which he served, and also embrace an understanding of the probable and possible effects of this service, in order that proper inferences may be drawn.

Now, dealing with the continuing words of section 73, "the evidence and medical opinions."

### *Evidence*

Everyone recognizes the demands made in the way of evidence. Memory means little if same cannot be linked up with some written record. Doctors' statements are discounted if the medical man has not made entries of treatment, and unfortunately many medical men are dead and records lost. The whole question of records leaves the men in an impossible position.

3. *Medical Opinion.*—Proper medical opinion is not obtained in many cases. Claims are refused where it is fairly evident that proper medical opinion has not been secured. We believe that right from the inception of a claim, through the commission, the quorums, and, as at present, the Pension Court, the whole idea should be not only to see whether the claim is warranted or unwarranted upon the evidence submitted, but also to discover whether the case has been investigated to a finality in order to see that complete justice can be done the man.

The matter of medical opinion is one that gives the Army and Navy Veterans in Canada great concern. Every year we spend many many thousands of dollars in obtaining medical opinions. Case after case comes to our notice where it is apparent to us that further exploration by way of medical opinion is necessary before we can be definite that justice has been done to the man's case. We realize that the disabled man is unable to obtain this opinion. He has neither the funds to obtain same, nor the idea of what to do.

I would like to digress here for a moment and say that the Veterans' Bureau, for which I have nothing but admiration, co-operate to the fullest degree. They, too, are faced with the same difficulties, each or more. If you apply to six eminent specialists in order to obtain a concensus of medical opinion, you have a large bill on your hands. This, we do not hesitate to pay, but the Veterans' Bureau are unable to go the length that we can go in expenditure. We would like consideration, by the forthcoming committee, of this matter.

Now, I am only mentioning a number of the difficulties the disabled ex-soldier, who served in France, is up against.

It is different with the man who did not serve in the "line" but only in Canada or England. In these cases the records are fairly complete. Except in

the case of the Forestry Corps and such Units where there was no resident medical man, there is or should be complete details of all illnesses and treatment.

We are forced to ask that some help be given to the case of the man who suffered in the line.

Recognizing the man's difficulties, the Army and Navy Veterans in Canada, at their convention in Vancouver, passed the following resolution:—

The Army and Navy Veterans in Canada in convention assembled in Vancouver on the 24th day of September, 1934, resolved as follows:—

That we request the Dominion government to consider the calling together of eminent medical specialists from different parts of Canada to consider the disabilities of neurasthenia and diseases of insidious onset in an effort to obtain a reasonable conception as to the service connection of these disabilities;

Further, that a majority of the specialists so assembled must be men who understand from personal experience what "war" means;

And further, we would request that our representatives be allowed to present the problem to the consultant board for its consideration.

This resolution aims at obtaining such an understanding of pension matters as would make possible the operation of section 73.

In the past, understanding has been reached by such a procedure, so there is a precedent.

In 1928 I had the honour to appear as a witness before the Tuberculosis Consultants Board, which sat in Christie Street Hospital. Beneficial regulations were made as a result, which are most satisfactory, and which simplified the work of the department. It seems to us that the intention of the "benefit of the doubt clause" can not be operative, unless we get down to a study of same and discuss type cases in all their aspects, and so have such regulations laid down that the department can be guided in their work. I can see no other way out of our difficulties. In fact, I believe that a thorough discussion between experts and the Adjustment Services of Soldiers' Organizations would bring about such a result that the disabled soldiers' problems could be settled with much greater speed and more satisfactorily than they are at present. Now you will probably ask us what type of questions we would desire to ask the specialists.

First of all let me reiterate that unless we get down to a discussion of the "benefit of the doubt clause" we shall get nowhere in pension matters. Clause 73 was placed in the Pension Act because of a very evident need.

Let me explain first by actual cases what the need is.

Take a case we will call "X". We have supplied the name to the chairman so that the particulars can be confirmed. "X" joined an infantry battalion of the C.E.F. in May, 1915. His service was very distinguished. He was wounded. He also was hospitalized for severe Trench Fever. He was awarded the Distinguished Conduct Medal, advanced to commissioned rank, and later awarded the Military Cross for conspicuous gallantry in the field.

The London Gazette of 6/8/17 gives the following citation:—

Awarded D.C.M. for conspicuous gallantry and devotion to duty. He repelled three bombing attacks in blockhouse, holding his post single handed. Twice attacked by liquid fire. He set a magnificent example.

Those of us who saw front line service would say that he was a very brave and gallant man. He was evidently not a nervous man, because within a year from the date of the award of the D.C.M. he was awarded the Military Cross for conspicuous gallantry.

The London Gazette of 1/2/19 gives the following citation:—

Awarded the Military Cross for conspicuous gallantry and able leadership in front of Drury from September 2nd to 4th, 1918. He per-  
[Captain C. P. Gilman, M.C.]

sonally led a party which rushed a machine gun nest on left flank of battalion, killing and capturing the entire crews, undoubtedly saving the battalion many casualties. Later, when the senior officers of his company were knocked out, he took complete charge and showed great skill in reorganization and tactical handling.

Finding a party of unit on left without officers, he organized them and led them to their objective with his own men.

Now, I suppose to anyone not having actual acquaintanceship with war as it was these citations would be sufficient to allow them to recognize the gallantry of this soldier's actions. Some, of course, would say that he was only doing his duty. We agree with both of these opinions. What we do say, in addition, however, from our actual knowledge of war itself, that in these two instances alone there was ample ground for assuming that any after effects in the war, of a neurasthenic condition, could reasonably be attributed to what this man went through so gallantly. I want to ask you: "If a man in civil life had undergone experiences not even approaching what this man went through, would you not ascribe any neurasthenic condition found in him later to his experiences?" I think you would.

Now, let us look at what happened to this man after leaving the service. His whole history since discharge has been one of ill health. From every position that he held comes evidence. He was an editor of a paper at one time, and sometimes the issue had to be held up through his ill health. Voluminous evidence is on file as to lay opinion of his condition and as to his developing a neurotic condition. I will not weary you with them—they are so many—from a judge, a stipendary magistrate, a member of parliament, the manager of one of our largest mining companies, and many others. There cannot be the slightest doubt in the mind of any layman as to his having suffered from a neurotic condition ever since his discharge. To-day he is a complete wreck, unable to work, and left utterly helpless because of lack of understanding. True, the quorum have granted entitlement and conceded that his neurosis is due to service, but this judgment was held up because in review an opinion had been expressed that the symptoms mentioned by witnesses are not typical of a war neurosis, but are of a constitutional type, and that the judgment that his present condition of neurosis is attributable to service is open to considerable question, and that the lay evidence is not sufficient because fifteen years have elapsed before application made.

Now, the request was made that the man be examined by one or more competent neurologists in order to discover the origin of the man's present neurosis. What are the grounds for attacking the decision that the neurosis present to-day is due to war service? We find—despite the fact that there is no evidence of pre-war unfitness, despite the facts of this man's gallantry with all it means, despite the most complete evidence of ill health since the war, from men who are above suspicion—there is a notation on the file to the following effect:—

I further pointed out that his record showed that any such panic was not based upon a physical fear but on the vague fears and that for complete cure it was necessary to delve into fear dates back to childhood, even though the outstanding experience of fear occurred during the war service.

In other words, due to childhood fears.

*By Mr. Betts:*

Q. Do I understand that "X" received an award from a quorum?—A. Yes.  
Q. What body did this?—A. The appeal court.



*By Mr. MacNeil:*

Q. What medical authority?—A. That was the medical authority.  
Q. Departmental or pension?—A. Departmental—well, yes.

*By Mr. Mutch:*

Q. Is that the head neurologist again?—A. Two of them. The file will demonstrate it all. I will not worry you about it. I have a bag full, but one or two will show you.

Let us look at another case which we will call case "Y." In this case, although pensionability has been admitted, it is extremely difficult for a layman, or in fact anyone else, to understand, as also in a number of other cases, how the assessment as to the degree of pensionable disability is arrived at. Let us look at the case and examine it briefly but carefully. He joined the army on October 21, 1914, and served in France, Belgium, and Germany. He was with a fighting unit, and we find the following entries of hospitalization on his records.

The record show as follows: Hospitalization: Admitted to hospital, 23/9/15, "Pyrexia," "Bronchitis." Discharged, 23/10/15. Admitted to hospital 15/9/15, "Shell Shock" and "Sprained Knee." Discharged, 28/9/16. Admitted to hospital, 13/1/17, "SW, Lt. Eye." Discharged, 26/1/17. Admitted to hospital, 7/6/17, "Myalgia." Discharged, 12/6/17. Admitted to hospital, 5/7/17, "GSW, Head." Discharged, 27/7/17. Admitted to hospital, 6/2/18. "I.C.T. Lt. Foot." Discharged, 8/3/18. Admitted to hospital, 14/6/18, "Tonsilitis." Discharged, 26/6/18.

NOTE.—There is no suggestion of misconduct in this case.

The Pension authorities admitted soon after discharge that this man suffered from neurasthenia and awarded a small pension. His disability increased, and at one time it was suggested that as there was prospect of his neurasthenic state remaining for some time that pension should cease and he be given a gratuity. But somehow or another this did not happen and later he was given a pension of 40 per cent. His condition is now admitted to be 80 per cent disabled but only 40 per cent pensionable,—an amount equal to war veterans' allowance for a man who had not been wounded but who was prematurely aged and unemployable; or again equal to war veterans' allowance for a man who never left Canada but who was pensionable at the rate of 5 per cent. He gets the equivalent in pension to a man who had never been wounded. However, to my subject. The decision in this case is that this man is suffering from:—

*First:* Constitutional psychopathic inferiority, congenital, not aggravated on service and

*Second:* Neurasthenia, superimposed.

Just imagine the situation. 35 months in France. Not many saw that length of service. Review his record of hospitalization. Do you wonder that we ask for understanding on these matters. Remember also that the governing clause of the Pension Act, section 11, states:—

In respect of military service rendered during the war, pensions shall be awarded to, or in respect of members of the forces who have suffered disability in accordance with the rates set out in schedule A of this Act, and in respect of members of the forces who have died in accordance with the rates set out in schedule B of this Act, when the injury or disease or aggravation thereof resulting in disability or death in respect of which the application for pension is made was attributable to or was incurred during such military service.

[Captain C. P. Gilman, M.C.]

And again, section 11 (b) states:—

No deduction shall be made from the degree of actual disability of any member of the forces who has served in a theatre of actual war on account of any disability or disabling condition which existed in him at the time at which he became a member of the forces; but no pension shall be paid for a disability or disabling condition which at such time was wilfully concealed, was obvious, was not of a nature to cause rejection from service, or was a congenital defect;

and section 11 (f) states:—

Subject to the exception in paragraph (b) of this subsection, when a pension has been awarded to a member of the forces who has served in a theatre of actual war, it shall be continued, increased, decreased or discontinued, as if the entire disability had been incurred on service.

But how do they arrive at their decision. Investigation has shown that some of this man's relatives have been nervous, but is it not reasonable to suppose that as the man could and did give such wonderful and satisfactory service in France for his country for over four years, it could be seen that even if there was some congenital condition existing on enlistment, and same was not apparent, that his present condition is to a much greater extent, if not to the full extent, due to what he went through overseas, than what is revealed in the assessment of pension granted to him? We want information and a discussion on how these decisions are or should be made.

But let us not forget.

Pensions are paid "for the loss or lessening of the power to will or to do any physical or normal act."

This of course means that if a man is in condition to perform ordinary labour as a 100 per cent fit man on enlistment, then any diminution of this 100 per cent fitness, which is the result of service, or which occurred on service must be paid for by way of pension.

Now this man has been admitted to a mental hospital on occasions and has had much hospitalization in departmental hospitals.

On enlistment he had no disability that was wilfully concealed, was obvious, and was of a nature to cause rejection from service.

I want to bring to your attention one case here to show you where the man has no show in pension.

*By Mr. MacNeil:*

Q. Before you pass to the next case, may I ask you to what extent, before arriving at this decision they investigated pre-enlistment history of the man concerned. You said there was an investigation of the history?—A. Yes, they investigated. It is a tremendous investigation. There are pages of it taken before and since.

Q. Who made the investigation?—A. They were investigators employed by the department to find out all they can about a man and his relatives.

*By the Acting Chairman:*

Q. When you say the department do you mean the department or the Pension Commission?—A. The Pension Commission.

*By Mr. Green:*

Q. Was that application rejected on the ground— —A. They gave an aggravation basis of 40 per cent. They said it was constitutional inferiority and they only gave him 40 per cent.

*By Mr. MacNeil:*

Q. Was the decision rendered on the basis of the evidence secured, or because of medical opinion?—A. Medical opinion.

*By Mr. Mutch:*

Q. Medical opinion of the two doctors?—A. Yes.

*By the Acting Chairman:*

Q. Have you got the age of the man when he enlisted—A. No. He is about fifty now.

*By Mr. Reid:*

Q. I asked this question the other day: do you think it would help the men in appealing if they had a medical man who would be able to understand, when a disease was mentioned, just the relation to other things?—A. We must have them. For instance, the abolition of the present pension board is partly that.

Q. That is my experience. If you go before a board the lawyer and the applicant are there and neither of them knows anything about it. In my view I think there should be a medical man present who would know about these things?—A. Yes, and not as an advisor only, but as one who sits on the board. Of course, the most important thing to me, and I am sure of it, is that before ever a case is considered proper medical evidence should be obtained. I think this case will illustrate pretty well what I mean. It is not settled yet, but it will be; and I know it is won.

*By Mr. MacNeil:*

Q. In your opinion of these cases the medical judgment rendered should be confirmed by a board of consultants?—A. No.

Q. Do you think that those rendering the decisions are not competent medical men?—A. I would say this. There is always a danger of a man, after many years, getting probably hidebound, if you like. It is like a man in any other job in a routine way. But there is one matter I do stress—I think these cases will stress it—the doctors of the board are fine men and I admire them very much, but they have not the experience of men who are out in actual practice today, and the men in actual practice today, the specialists, could teach them a whole lot. I mean to be quite candid. I do not think they are justified, with their knowledge, in giving the decisions they are giving.

Q. If there is no actual evidence to justify the decisions, how can they argue that a case has congenital origin? Have you any explanation for that position?—A. The cause is not definite. Today we are taking that case—today it is being reviewed by a specialist in Boston and another—we have four specialists working on it now to give us the evidence so that we can come back at them. That is the only way we can do it, and it is the most successful way. In this little book there is a mass of stuff that has been won on that basis.

*By Mr. Emmerson:*

Q. Are the medical men who do this examining returned men—or men who have had service at least?—A. Yes.

Q. All of them?—A. With the exception of one who is a very good man too.

*By Mr. Macdonald:*

Q. The men doing this examining—the psychiatrists?—A. Yes.

Q. Don't they also engage in private practice? They are not full-time employees of the department, are they?—A. I think they are.

Q. In all cases?—A. Not in all cases.

[Captain C. P. Gilman, M.C.]



Q. As I understand you, your suggestion is that there should be medical men who are not departmental officials making these examinations?—A. No, I am suggesting that there should be a sit-down study between specialists—I will come to that in a moment—appointed by the government, and the Army and Navy will provide an equal number of specialists at their own expense to discuss these matters, and to allow us to put up our cases to them—type cases—and come to some decision which will be available to the Pension Board as to how they should deal with these cases.

*By Mr. Thorson:*

Q. You mean that this board shall consist partly of departmental doctors?—A. No, sir, on the contrary, I would let them come in, yes, but I would have outstanding specialists besides and we provide the same number of specialists and pay for them. We will put the case up to them and ask them what should be done—what is fair in this case.

*By Mr. Hamilton:*

Q. When you say “we” whom do you mean?—A. The Army and Navy.

Mr. REID: Take a man who had carcinoma of the stomach. He goes before a board and the doctor says, “your complaint is ulcerated stomach which has no relation to carcinoma. You had not carcinoma on service. You should go to a private medical man.” Ulcerated stomach may bring on carcinoma, but he is thrown out because carcinoma has no relation to military service.

The ACTING CHAIRMAN: If I understand you, it is proposed that the department—not the commission, but the department—should call for a quorum of specialists here in Ottawa and the Army and Navy, for instance, should call another party and they should join together and take evidence even from the medical charts belonging to the commission and establish a set of rules which will guide the commission in their future rulings.

The WITNESS: Will help them to come to some basis.

*By Mr. Green:*

Q. Would not that objective be achieved if upon a particular case of neurasthenia coming up the Army and Navy Veterans and the department engaged the best specialists to make their findings on a set case?—A. Engage them? There are no funds for the department to do so.

Q. If you are willing to do it under this arrangement, could you do it with a set case?—A. There are so many types now coming to the notice of the government. We want to clear this matter up once and for all.

*By the Acting Chairman:*

Q. Have you got a classification of the types you are interested in?—A. Yes. I want to explain another case which will show our weaknesses to-day.

*By Mr. MacNeil:*

Q. In the case set out there was an examining medical authority in favour of the applicant?—A. Yes.

Q. And upon review by the head office the decision was reversed?—A. Yes, and they called on him and examined him.

Q. Were those men responsible for the fantastic decision; did they see the man?—A. They visited him. They have given in now and paid him a pension.

Q. Why do you suggest you should have a board to more or less police departmental medical authorities?

The ACTING CHAIRMAN: He does not suggest a board; he simply suggests a board composed of medical practitioners outside of the department—both the Department of Pensions and also men outside of the commission who should

be called here at Ottawa along with medical practitioners chosen by the Army and Navy Veterans to join together and submit to them a certain specific classification of cases in order to enable them to prepare rules and regulations for the guidance of the commission in their rulings in the future.

The WITNESS: That is what it amounts to—to come to an understanding in these matters as we did in the case of tuberculosis.

*By Mr. MacNeil:*

Q. Would that overcome the condition in the department of which you complain?—A. Yes, because that would take care of the other provisions, I think. If I go on with this case you can see where the matter comes in.

*By Mr. Tucker:*

Q. I have a case in mind of a chap who served in the same unit I did overseas. He was all right overseas, but towards the end of 1918, during the last one hundred days, he seemed to be getting strange. Later on he began to have more and more difficulty in getting a position, and ultimately he had to be attached to a mental hospital. Now, as the result of evidence given by the quorum he received a considerable pension. The case was appealed and the appeal was successful and his pension was disallowed. I understand that they had a hearing in Toronto of specialists on the question of mental diseases—without actually giving evidence to the commission—of what diseases would be aggravated by war service and what would not, and they came to the actual conclusion in this case that this was a particular type of case that would not be affected by war service; it would have happened whether he had gone overseas or not, and the terrible strain he had endured at the front did not in any way affect his mind. Now, I understand that they had a hearing like that of specialists in Toronto, and that is about two months ago; is that right?—A. I do not know, but, at the same time there are so many types, not only of neurasthenia but of other diseases. There is a number of disabilities, and I do not think we would be prepared to take the opinion of specialists unless we knew who they were.

*By Mr. Green:*

Q. So there have already been specialists?—A. Yes, in a number of those cases.

Q. Have you any objection to the decision that those men reached?—

A. Every case depends on itself.

Q. You know the type of specialists, have you any objection?—A. Not in a number of these cases, no. Generally speaking every case is a separate case; you cannot give an opinion.

Q. Would that not make it very difficult to set up a lot of rules?—A. I am not suggesting rules, but I do think this; that if there was a get-together to discuss these things by the highest medical authorities, and we could have the layman's side of it and give them the full particulars, good results would accrue to the men.

*By Mr. MacNeil:*

Q. But you would have to deal with specific cases?—A. Oh, yes

Q. Could you set down general rules that you could use to cover all cases?—A. No.

The CHAIRMAN: To cover neurasthenia and all diseases of an insidious onset would be an extremely tall order.

[Captain C. P. Gilman, M.C.]

*By Mr. Hamilton:*

Q. If somebody is ready to pay the expenses?—A. We are doing that every day, but it is a terrible burden. The trouble is this; that while the matter is waiting the man is suffering. I have a case here which is not over, and I think it will explain to you what trouble we have to go to.

*By Mr. Green:*

Q. Would it not come down in the end to the Commission deciding even after obtaining medical opinions?—A. No.

Q. They will decide on each case, and they will not be bound by general rules?—A. Oh, no. The point I am trying to make is that the attitude to-day is not for the men. The men are not being given the benefit of the doubt.

*By Mr. Mutch:*

Q. Is that not a question of procedure?—A. It applies to the fact that cases are not properly prepared and the right kind of medical evidence obtained, and it also applies to our personnel particularly in the court.

Q. In regard to the last case you cited, there is no suggestion that the man's case was not properly presented?—A. No.

Q. At the same time, you got a decision with which you obviously disagreed or you would not cite the case even with carefully prepared evidence?—A. It is not so much that it is carefully prepared, and by careful preparation I mean the weight of medical evidence and medical opinion that is not obtained.

*By Mr. Hamilton:*

Q. Does that not involve obtaining medical evidence before you go before the Pension Commission?—A. Exactly.

Q. And that is being obtained now at the expense of somebody, not the Government?—A. Yes.

Q. At the present time the applicant has the District Pensions Advocate but nothing in the nature of medical assistance?—A. No, and no money to get it.

Q. Knowing something about the legal end of it, a Pensions Advocate who goes before a Board and wants to establish a case which necessarily is based on medical evidence would want someone at his right hand to deal with these technical points which he probably does not understand, just as Mr. Reid suggests. Would it be feasible or advisable, even more than having a legal man or a man of that type as Pensions Advocate, to have a good medical man who would gradually become an expert in dealing with these special types of cases which come before the Pensions Boards?—A. They can call for help and advice from the department, but very often that is not the advice that is wanted. I think if you will allow me to give you the particulars of one more case, you will see where the difficulty lies.

*By Mr. Macdonald:*

Q. In connection with the case you have just cited, do I understand the man got a 40% pension?—A. Yes, sir.

Q. Is he still getting a 40 per cent pension?—A. Yes, sir.

Q. As an aggravation of the disability?—A. Yes, it is an aggravation of a congenital disability.

Q. So what you say is that it is not an aggravation?—A. No, my words were it is aggravated much more, if not all, by war service.

Q. It is a matter of percentage?—A. Absolutely.

*By Mr. MacNeil:*

Q. You said there was no evidence to show a pre-enlistment condition?—A. Absolutely, no.



Q. And the medical men rendering the final decision stated it was constitutional in origin and the neurosis was super-imposed on that constitutional condition during service?—A. Yes.

Q. You also stated that that opinion would not be confirmed by expert medical opinion?—A. I do not think so.

Q. Does that leave the conclusion that incompetent men deal with these cases in the Department?—A. The psychiatric doctors are a great trouble to me. I cannot understand them. It is somewhat like the cubist's art.

*By Mr. Macdonald:*

Q. That might not help the situation?—A. No.

*By Mr. MacNeil:*

Q. Are these cases reviewed while in hospital?—A. They see the men while in the hospital.

Q. Do they come within the category already mentioned by the Canadian Legion where the circumstances are reviewed while the man is undergoing hospitalization?—A. Very often.

MR. TUCKER: In connection with the case I referred to, the leading psychiatrist in Manitoba gave evidence that this mental condition was aggravated overseas. Now, on what basis, or by what right, did this appeal tribunal down in Ottawa simply go against that ruling? Could they get further advice down in Ottawa, or on what basis did they overrule that opinion?

THE ACTING CHAIRMAN: First of all, they have access to the file; they also have access to the medical history sheet of that man, and the quorum did not have that. They only had before them the certificate of the specialist who examined the man.

WITNESS: No, there was more than that.

MR. TUCKER: I saw it through, and I happen to have given evidence myself. They had everything before them, they had the evidence of people who knew this man before he enlisted, while he was overseas, the evidence of the psychiatrist in Manitoba, and the opinions were to the effect that this man's mental condition was aggravated by his service overseas. Then the tribunal down here overruled the decision of the quorum, after hearing the evidence viva voce, and I would like to know by what right they came to that conclusion.

MR. MACDONALD: They no doubt gave reasons for the judgment.

MR. TUCKER: They just gave reasons ex cathedra that this was the type of case that cannot be aggravated by overseas service. This was simply a finding in spite of the evidence of the leading psychiatrist of Manitoba that it was aggravated.

WITNESS: Mr. Chairman, that is exactly what we are asking for.

*By Mr. Thorson:*

Q. I do not quite grasp what you propose should be done. Are you proposing that an extra quorum should be called upon to pass judgment upon these cases?—A. Oh, no.

Q. I do not quite grasp it. Would you mind just explaining it to me?—

A. Might I just explain that in 1928 we had a lot of trouble with tubercular cases, and we went to the Minister and we said, You are not treating the tubercular cases properly. We said, Will you give us a consultant board and let us put up our cases and if the decision of that board is against us, we will accept it. If it is for us, you must accept it. We went to that quorum, and Mr. Hale was with me and we put up what we thought was right and they agreed with us on practically everything, and the law was changed. The opinion of these specialists was that we were right and that the practice beforehand was wrong.

[Captain C. P. Gilman, M.C.]

*By the Acting Chairman:*

Q. You mean the act was changed?—A. Certain regulations were made.

*By Mr. Thorson:*

Q. I do not understand what the mechanics are. What channels do you wish to go through?—A. I will try to explain it in this way. We want the government to form a board of consultants, and I have an alternative which I will suggest later, and this board to be composed of six or eight specialists, at their expense. The departmental doctors should be at liberty to sit in, and we will provide an equal standing of medical men on the different diseases. We have such a number of these cases, and in connection with the last case mentioned we would give them the data and we would ask what should be done with a case like that, and they will say what they think should be done, and they will do it.

Q. What power is this board to have?—A. None, sir.

Q. It is just to express an opinion?—A. It is just for us to put up a case to them by men who are qualified to express medical opinions on these things with relation to service, and to get their opinion.

Q. But these specific cases submitted to this board will not be amended on their finding?—A. Oh, no.

Q. They are specimen cases?—A. They are specimen cases only, but they will have to be amended by the Board of Pension Commissioners.

Q. I am speaking only of specimen cases?—A. Nearly every case of neurasthenia must stand on its own feet.

Q. Are you not therefore suggesting additional machinery to review all cases of neurasthenia and all cases of insidious onset?—A. We are wanting a new attitude when these cases are considered.

Q. You are wanting more than a new attitude, you are wanting new machinery set up, are you not?—A. That would come perhaps, as a result of what would happen with a board of consultants.

Q. Is that not really what you are suggesting, a new consultant's board which shall deal with and pass upon cases of alleged neurasthenia and cases of slow, insidious onset?

The ACTING CHAIRMAN: Mr. Thorson, I think we would make much better progress if we asked the witness to read the following pages which give the classification and character of the cases which they wish the board of consultants to examine.

WITNESS: I want to give you the kind of thing we want, but before I do that I would like to tell you of a man who came to us suffering from encephalitis lethargica.

Q. Would you mind explaining what that means?—A. That is sleeping sickness. This man served in the theatre of war in Egypt. He was in hospital from the 27-3-16 to the 27-2-17 with typhoid fever and enteric fever. I do not think that diagnosis is right, there was something else the matter with him. The medical board at Kingston, October, 31, 1918, states neurasthenia. In connection with this case they have a whole lot of evidence, but before we took this case up we got thirty more pieces of evidence, and we had to get it to get the case re-opened, which has taken us fifteen months. At the last sitting we called nineteen witnesses. We called specialists, including Dr. Connell of Kingston, who I believe is the dean at Kingston, as well as a number of other specialists. I do not want to go into this case at too great length, but if this medical evidence had been obtained in the first instance, which should have been obtained, this man would have been on pension long ago. Here is an instance of where the man has no chance because he has no money, the Department has no money, and he is not able to get medical evidence. Because of that, that man is out forever unless he comes to us and we turn around and pay the money to get that evidence.

*By the Acting Chairman:*

Q. Are you correct when you say the department has no money?—A. Well, I think so.

Q. It seems to me they have a contingency fund?—A. The Veterans' Bureau have no power to get the medical evidence. In this case we had to get nineteen pieces of evidence. We had to go to the appeal court and ask them to send the case back. If that man had not come to us and we had not spent the money he would have been out forever.

*By Mr. MacNeil:*

Q. Was that expert medical opinion?—A. Mainly expert opinion which they had not obtained.

Q. Does that indicate that the department had no desire to secure the completion of the case?—A. I do not think they had. I am afraid if I got down to a few of those cases, I would not say that. But you get a medical certificate on file, and on the basis of that the department says he is out. To a man who studies pensions that is not sufficient. You can see that the department are not getting medical opinions for the men. You must have a weight of opinions in these cases, and I have a book full of them here which, if I had time, I would be glad to tell you about.

*By Mr. Tucker:*

Q. Is that not the duty of the Veterans' Bureau to hunt up evidence and provide it on behalf of applicants for pensions?—A. Not for specialists' opinions, sir; they have no money, and you must pay a medical man for his opinion.

Q. In other words, that the Veterans' Bureau, which is supposed to assist applicants for pensions in obtaining favourable decisions should have the right that any lawyer acting for a private individual has of going to any reasonable expense to obtain any necessary evidence?—A. I am suggesting that.

Mr. HAMILTON: Why not have a district medical pensions advocate?

The ACTING CHAIRMAN: There again he becomes a permanent official, and at that moment he is absolutely useless.

WITNESS: You must have independent evidence.

Mr. Mutch: The moment you pay a regular salary, he is useless.

WITNESS: It must be an independent medical man who gives the opinion.

Mr. GREEN: What is the remedy proposed?

The ACTING CHAIRMAN: The creation of a new board called a board of consultants composed of medical officers of very high standing, to be assembled in Ottawa either to sit here permanently—

WITNESS: Or temporarily.

The ACTING CHAIRMAN: If you are going to examine each case it must be permanent. The Veterans' Bureau will appoint the same number of men, and the board of consultants will be at the disposition of the Pension Commission in accordance with a new bill and decide, practically speaking, on the classification of cases and give, not a ruling, but a decision that will guide the commission in the future, or examine every case that is submitted to them. You cannot get over that.

WITNESS: What we mean is that we have a lot of trouble to-day with cases that we cannot get over, and we just want to get a basis. If the specialists say impossible, we have got to take that. If they suggest a change in adjudication we will have to accept that.

*By Mr. MacDonald:*

Q. Did you have the board in connection with your tubercular cases?—A. Yes.

[Captain C. P. Gilman, M.C.]



Q. Did it work successfully?—A. It has worked beautifully, and its regulations to-day apply. They went home and discussed all the evidence with each other and sent in the report which is printed, and it was a most satisfactory piece of work.

Q. That was dealing with one specific disease?—A. Bronchitis, tuberculosis, and all cases of that kind.

The ACTING CHAIRMAN: The witness has in his hands a classification of cases that are to be submitted to the board of consultants, should it be appointed temporarily or for eight days, ten days, or whatever time, to complete its work, and it seems to me it would be hard for the department to provide the money to meet the wishes of the war veterans, and I think it should be left to this committee to make a recommendation.

WITNESS: We asked for a specialist's board in order that there may be an understanding reached in cases like these I have mentioned and also in some other cases. Such questions as:—

(1) How can the Court of Appeal separate the disabilities of bronchitis and tuberculosis when both disabilities are present. Candidly, it isn't possible and yet it has been done.

(2) How the art of medicine is so perfect as to state a disability is 4 per cent is due to service and not 5 per cent. Candidly, they achieve the impossible. We have a shrewd suspicion that it is dictated through the fact that the 5 per cent pension carries the right to relief while 4 per cent does not.

(3) Does not the fact of war with what it means of conditions of front line service mean something. Records are available as to weather conditions; what kind of Shows the men took part in. We have the knowledge of what these men must have endured, (and this is known to front line men only) and surely some presumption can be accepted in favour of these men in considering these cases. Now I am speaking to you as a man who suffered in the line; who saw over two years steadily in the line, in and out without break except for two short leaves. Can any man picture or understand what this means unless he served in the line himself. Can a layman understand; and should not there be the understanding that war with what it meant in shock, in hardship, in standing days and weeks in water, sometimes with little food, with biscuits and badly cooked food; in nervous exhaustion, in suppressed fear, in the determination to carry on despite every difficulty, mean something and count for something when later he is found seriously disabled. I am not speaking for myself. I am cared for. I look at the other man who was able to carry on; who was not put out as I was but who suffered perhaps more than I did. I want to ask the specialists whether war service means anything or nothing. We think that we can explain the matter to them. And again.

(4) Is it not fair to ask that when a poor devil who has suffered in the line and later hospitalized, that the attending medical man who has had him under his care should not be asked only, what is his condition upon discharge, but also what resistance the man has, and the attendant doctor's opinion as to assessment be accepted. It is all very well to say that specialists on the pension Board at Ottawa have special knowledge as to assessment. We admit that some have, but should we not have a real heart to heart discussion on these matters. There is much to talk about. We believe that we could illustrate our point in a manner that would show that a change in procedure is necessary, which would not only be of benefit to the man, but which would be of financial benefit to the country.

We want to ask many other questions from actual cases but chiefly we want to ask:—

(5) Is it fair to discuss a claim when it is apparent that it has not been sufficiently investigated from a medical standpoint, and should there not be a more thorough investigation. For after all pension matters are mainly medical matters. We of the adjustment service of the Army and Navy Veterans in Canada can produce case after case where the man has been refused pension; where the man has been underpensioned simply because there have not previously been obtained a consensus of medical opinion in the case, though it is to be obtained. In numerous cases we have obtained such opinion and obtained the desired result. Why should we have to do this? Why should not the Government provide the funds for the Veterans' Bureau to obtain this opinion?

May I add I want to say that my sincere wish is that this committee should call Col. Topp of the Veterans' Bureau and obtain the benefit of his experience in these matters. I do not know whether he will agree with me or not, but we have had the occasion to help him in obtaining medical opinion. I can truly say that he has an understanding of the subject and his evidence will be most valuable.

Perhaps I have not dealt with the subject adequately, but I do know that if a specialists board is formed, say in two months' time, I believe that much good would be served and not only the disabled ex-soldier be benefited but in the ultimate the country would be saved much expense in administration. And, after all, we desire nothing that is unreasonable, but simple justice for the disabled ex-soldier.

As an alternative suggestion, if a consultants' board is not practicable at the moment, I would ask that:—

A number of specialists in different diseases be appointed by the government in addition to a number of specialists nominated by the Army and Navy Veterans in Canada, to whom we may propound questions and submit briefs upon the basis of actual cases in order to obtain opinions as to attributability of disability to service; also as to a basis of assessment and the questions of medical evidence.

I wish time was at my disposal just to give you a few cases. I have one case here where a man applies for a pension, where they refuse him a pension, where he comes back and where they say, after getting reports from Dr. McNabb and Dr. Lyman:—

We have endeavoured to convince Mr. X that he has no real disability. We do not intend to have him re-examined, nor to take any further action at the present time.

That was in February of this year. I will now read you a letter of April 17:—

Pension has now been granted at the rate of 10 per cent.

The man was told that they did not intend to do anything more with it, yet within six weeks by our keeping after it and getting more evidence, the man is on pension. This book is full of cases like that.

*By Mr. Betts:*

Q. Was that case before the quorum or was it before the commission?—

A. Oh, no, this was before the Canadian Pension Commission.

*By Mr. MacNeil:*

Q. If such a board of consultants was set up and they established a general procedure by way of recommendation from the department, even then how would you overcome the difficulty if by any chance a case was considered by the  
[Captain C. P. Gilman, M.C.]

departmental authorities as of constitutional origin? It would automatically be treated under section 11, sub-section 1 (a) and rule him out?—A. Yes.

Q. Do you suggest any amendment to the act that would more fairly deal with that?—A. In that case I doubt if the congenital part was as large as stated. What we are trying to prove to-day is that any disability he had that was congenital was not 40 per cent, when a man is 100 per cent fit going in. When he has never been sick, always worked, goes to the war and spends four years there with all the hospitalization he had—gunshot wound in the head and a few other things, and he comes out disabled, how do they arrive at 40 per cent?

*By Mr. Reid:*

Q. Have you ever considered section 11, subsections a and c in regard to the benefit of the doubt clause? If you read sub-section a you will find two words there "attributable to" and "incurred." That is in regard to the granting of pensions. When you come down to sub-section c you will find that an applicant shall not be denied a pension, but the words "attributable to" are left out, but reference is made to "incurred on service." Have you ever given any thought to that?—A. You mean section 11?

Q. Yes. My own view is that many of the men feel, in view of that clause, that if they cannot show any service records where they have been injured or where they have complained they are out; whereas, if the benefit of the doubt clause was stated, it would be different. It seems strange to me that the words "attributable to" are left out in sub-section "c". I do not know whether you have gone into that or not. If you read section 11(c) with section 73, section 73 has no bearing at all. That has no "benefit of doubt" because unless a man can show that his injury or disability has been incurred on service he is "out" under section (c); whereas, if they were dealing exclusively or entirely with subsection 9 of section 11 the words "attributable to" would apply. A man might well not be able to say it was incurred on service. He would not be able to show what his disability was attributable to.

A. We are talking of "aggravation" cases. There must have been some disability before service.

The ACTING CHAIRMAN: I think that the committee which sat in 1929 considered this type of claim very carefully, and as a result the words "attributable to" were left out of this section on purpose.

Mr. REID: Why?

The ACTING CHAIRMAN: Because it would have affected men who had not served overseas, and who had not served in France. I know the matter was considered and this other issue came to the fore. I think it was the intention of the committee not to put that in. I speak from memory. I have some recollection of that.

*By Mr. Streight:*

Q. A while ago you related a case there where in February of this year the man had no pension, he was declared normal?—A. Yes.

Q. And then you went right after them and you got a pension? Can you give us the circumstances under which they gave him that pension?—A. It was the result of two medical reports by specialists. In the first instance the reply which came to us was, there appears to be nothing further to be done with the man, we have endeavoured to convince him that he has no real disability, that it is all imaginary.

Q. On what ground was it made?—A. I will just give you that now—cardiac neurosis (heart trouble). They said he had no disability, that we have endeavoured to convince him that he had no real disability and we do not intend to have him re-examined or to take any further action in this case.

Q. That was in February?—A. That was the 18th of February.



Q. When did they really give him the pension?—A. That was on March 20.

Q. An they said he had a heart condition then?—A. They admitted it after we had proved it several times over.

*By Mr. MacNeil:*

Q. You did go to some expense to secure these special reports?—A. Yes. In that case it cost us \$20. There was one case which cost us \$300.

*By Mr. Mutch:*

Q. Would it not be demonstrable that in a great many cases in which you have gone to the trouble and expense in getting expert medical evidence that evidence has been completely ignored by the board?—A. Yes. This is a case which was ignored; but the experts we got in this case were Dr. McNabb and Dr. Lyman.

Q. There are no doctors on the Appeal Courts are there?—A. No.

Q. And in the face of expert evidence such is this you got an adverse decision?—A. But that was the C. P. C.—the Canadian Pension Commission. It was the doctors who said that.

Q. You mean, the government doctors?—A. Yes.

*By Mr. MacNeil:*

Q. Has there been any chance of policy in recent years in regard to the interpretation of section 11 (1), clause (b)? Was it not formerly considered that "congenital defect" referred only to some pathological condition that would be more or less obvious? For instance, a man with a club-foot. It was never intended that he should be pensioned for that club-foot when he was discharged from the army?—A. That is so.

Q. In former years was there ever any interpretation that would apply as indicated in the cases you have cited?—A. In the old days we did not have any difficulty with this type of case.

Q. Formerly mental disorders arising in a man who served in an active theatre of war were dealt with without any attempt to distinguish between degree of aggravation and the pre-enlistment condition?—A. Yes.

Q. To what do you attribute the change of policy in the decisions given by certain medical officers in the department?—A. It is difficult to say. I cannot understand it at all. I would not like to think that entitlement was left out of the Act—there is something very wrong.

Q. Is the medical officer responsible for these decisions an ex-service man himself?—A. In this case he was. Yes.

*By the Acting Chairman:*

Q. Is that your case on resolution 9?—A. Yes, sir. I know you don't want to be wearied—

Q. Never mind that. I would like to ascertain for the committee, you do not propose to ask for any amendment to the present bill?—A. No, sir.

Q. Therefore, all you ask is a departmental review as to the advisability of appointing a consulting board, as a new agency in the department, and in order to get more satisfaction through the War Veterans' Bureau for the veterans themselves?—A. We want to get down to study the whole question through specialists. It would probably take not more than two weeks, but in that two weeks they would do all they can do. If you do not want to bring them to Ottawa we suggest that they provide the names of their men and we will provide the names of ours, and we will send briefs. It is not intended to go outside at all. It is not for publication. It is to try to get a better condition of things. This book is full of difficulties, it is a book built up from actual cases of difficulties.

[Captain C. P. Gilman, M.C.]

*By Mr. MacNeil:*

Q. Would you favour an amendment to the Act to clarify the congenital defect clause?—A. We might get down to that.

*By Mr. Mutch:*

Q. I have in my hand here the case of a man who was refused a pension because his mother pampered him when he was a child and thereby destroyed his mental processes to a material extent. How general is that sort of thing?—A. Well, you see this man won the D.C.M. and the M.C. and he was refused a pension because his trouble was due to childhood affairs.

Q. I have had two interesting cases referred to me; one is a case where a man's pension was cut off because he was just a weakling—his mother made him that way when he was young; and the other case was not even a case in which he was dropped on his head when he was a baby; his mother fell before he was born?—A. Yes.

Q. Those are two actual instances. How the doctor knew of something which happened before the man was born, I do not know?—A. I want to make this statement advisedly: With respect to the decisions of the Pensions Appeal Court, if we can get these cases reviewed by these experts I am very sure that we could get the great majority of these decisions reversed in favour of the men. And the reason for my statement is because cases have not been properly prepared and much of the evidence has not been produced to the court.

*By Mr. Hamilton:*

Q. Don't you think it would have to be fairly done? What I had in mind from listening to this is that if a certain number of cases are sent in by your organization some other organization will say, they gave special consideration in the case of "X", they gave special consideration in the case of "Y", we have "A", "B" and "C", and we would like to get that special consideration for them. Then an individual comes along and he says, it is all right for one organization to get this special opportunity, and for another organization to get it, why can't I get it. When he comes to me, way up in the back woods of northern Ontario, how am I going to explain to him that he can't get before the additional specialists; because, he is just as convinced in his own mind that he has a just claim and that he should have consideration by the specialists as anyone else, and he wants to get a square deal?—A. I do not want any man to appear before the specialists. This is just all their records. We want to get an understanding as to how things should be dealt with.

Mr. BETTS: He is not going to change your arrangement, his idea is to use these cases as a means for arriving at just decisions.

Mr. HAMILTON: He is going to use them for type cases. Yes. Then, it comes right back to the same thing, it is being done for an organization.

WITNESS: We are not asking this for ourselves alone.

Mr. HAMILTON: That is what I want to get at. What he has are type cases. They are to go before these consultants. When I get home I am going to get a lot of requests for some special type cases to be dealt with.

*By Mr. Macdonald:*

Q. What type cases do you suggest?—A. We have the types here.

Mr. HAMILTON: Neurotic types.

WITNESS: Other types of cases, too. We want them to consider practically all disabilities resulting from war service. We can't leave any out. I really think the discussions might well take a month, and if we had the right number of cases, and if it did take a month, we would get more satisfaction.

*By Mr. Macdonald:*

Q. Then they, or some other body, would have to review all cases upon which the board had rendered an opinion on that particular type?—A. Oh, yes. That would be a simple matter. It would be just plain justice to the man.

Q. There is no question of discriminating, taking one man's case and not another's?—A. Absolutely not. There would not be so many of these cases, but there would be a few, and the men could come up for medical examination again.

*By Mr. MacNeil:*

Q. Take the case of psychopathic personality, the present rule is that it has to be of constitutional origin; it might be that the Board of Consultants will say that psychopathic personality would not be considered as constitutional in origin unless certain special evidence is submitted?—A. Yes. But, medicine as yet is a little bit up in the air on this matter, and I think the most we can get out of it would be to say that they are putting too much down on "pre-war", or to his original congenital disability.

*By Mr. Macdonald:*

Q. The thing that appeals to me in this is that it did work in connection with tuberculous cases. If it worked there why wouldn't it work in connection with other diseases?—A. I may say, Mr. Chairman, that when we brought the consultants in on that every one told us we could do nothing. We were told that it was impossible; however, the results were magnificent.

The ACTING CHAIRMAN: Is it the consensus of opinion of the committee that special notice should be taken of the evidence given by Captain Gilman on resolution 9, and that it should be gone into again when we consider our report. Would that be satisfactory? There is no amendment to that, however.

*By Mr. Betts:*

Q. In connection with what was done for the tuberculous cases, after the formulae had been sketched out by the Board of Consultants were the rules then applied to the case already decided?—A. Oh, yes.

Q. Those cases were all reviewed?—A. All the cases directly concerned.

The ACTING CHAIRMAN: It affects only those cases that the Veterans' Bureau has in hand to place before the commission. I do not think it will affect any future applications unless they come within the questions to be submitted to the Board of Consultants.

Mr. BETTS: What I mean is all cases that have been decided since the war.

The ACTING CHAIRMAN: They are brought specially by the Veterans' Bureau. I would suggest, gentlemen, that we give this matter further consideration before we make our final report.

WITNESS: There is just one other resolution with which I would like to deal, and that is resolution 10, clause (c). Mr. Browne-Wilkinson will take the other clauses.

(c) In the case of a pensioner entitled to medical treatment living in the United States, we suggest that provision be made for medical treatment and hospitalization at the nearest convenient point. We think it unwise and ungenerous that such applicant should be required to return to Canada for treatment involving, in some cases, the life of the applicant; we suggest that these and cognate matters be enquired into by the Department of Pensions and National Health, and the necessary remedial measures taken.

Now, gentlemen, in St. Anne's to-day in the T.B. ward there are three men who were forced to come to Canada. One man is dying, and the other two men cannot get back to the United States. They have been forced to come here.

[Captain C. P. Gilman, M.C.]



Their families are in the United States and their work is in the United States. They came back to Canada, and the government will not allow them back. They were not allowed to have treatment at the instance of the department in the United States. There is one case which I will cite at the moment where medicine was refused and treatment was refused, and the man was forced to come back to Canada, and he died immediately. He was refused hospitalization in the United States. The man was practically dying and he was refused hospitalization. They had to take him to the Shaughnessey hospital where he died. There is the matter of these men who were forced to come to Canada for treatment because they could not get it in the United States, and they cannot get back to the country where they have been living for the last twenty years. The three men in St. Anne's hospital came over, and if a man is in a serious state of health in the United States he is forced to pay his own way back to Canada to get into a hospital and then he cannot get back again.

*By the Acting Chairman:*

Q. Have representations been made to the department?—A. Yes. I have a letter from the late minister, Dr. Sutherland. He was going to take it up. It has been represented to everyone and no action has been taken.

*By Mr. Hamilton:*

Q. He is not refused hospitalization in Canada, is he?—A. No, in the United States; and forced to pay his way back to Canada.

*By Mr. Betts:*

Q. Forced to pay his own way?—A. Yes, to the border, and they pay his way from the border. It is a very serious position to be in.

*By Mr. Cameron:*

Q. Is it not true that in former years hospitalization was given to Canadian veterans in the United States?—A. It was discontinued some years ago because the United States people wanted all their people back and there was not the necessity for hospitalization in Canada. The argument is that if a man goes into the hospital in the States they keep him there indefinitely, and they force the men to come back to Canada, with the result that some men have died, and these three men are left in Canada and cannot get back. To-day I am applying to the United States to get a man six months' leave. His family is in the United States.

*By Mr. MacNeil:*

Q. Were these men domiciled in the United States prior to enlistment?—A. Twenty years.

*By Mr. Brooks:*

Q. The man was in a dying condition when he left the States, was he?—A. We advised them of his dying condition. We begged them. We had to ship him by boat from Los Angeles and we got him to the Shaughnessey hospital where he died.

*By Mr. Hamilton:*

Q. United States citizens who served in the C.E.F. and took up homes in the United States can get no hospitalization over there; is that it?—A. If they are in a serious condition we want them here. There is this dying man in St. Anne's to-day. He is a naturalized American.

Q. I have in mind men who served in my battalion who came from the States and are back there now, and some of them were pensioners. They would not be entitled to any treatment or hospitalization in the States, and they would have to come to Canada for it?—A. A few may with certain disabilities, but not with a long term disability like tuberculosis.

*By the Acting Chairman:*

Q. But surely there must be some request for departmental action in this matter?—A. I may say this, that they would not even pay for the man's codein to keep his pain down—this man that came to the Shaughnessey hospital. I wired him money to keep him in Los Angeles.

The ACTING CHAIRMAN: I think it would be advisable to call the attention of the minister to this. Will you make a note of it?

The committee adjourned to meet Thursday, April 23, at 4 o'clock.

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Pension and Returned  
Problems, Special Cttee 1936

SESSION 1936

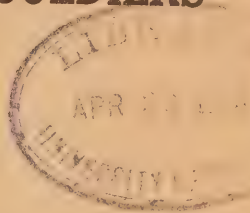
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HOUSE OF COMMONS

SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS



MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

THURSDAY, APRIL 23, 1936

## WITNESSES:

- Mr. J. R. Bowler, Secretary of the Canadian Legion of the British Empire Service League
- Mr. Richard Hale, representing the Tubercular Veterans' Association, and Chief Pension Adviser to the Canadian Legion

OTTAWA  
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PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1936





## MINUTES OF PROCEEDINGS

THURSDAY, April 23, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4.00 o'clock p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Betts, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hartigan, Lapointe (*Matapedia-Matane*), Lennard, Macdonald (*Brantford City*), MacNeil, Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), Streight, and Thorson—20.

The Chairman filed a report on "Meritorious Pensions" which was ordered printed as appendix "A" to the evidence of to-day.

Certain corrections as set forth in a letter from Mr. Alexander Walker to Mr. J. R. Bowler regarding Mr. Walker's evidence were ordered to be inserted in the Minutes of Proceedings, and are as follows:—

Page 67, first paragraph, after the words "in Calgary" it should read: "We have three members of the Department. One is the Administrator, the others are under him and I am sure that what he says the others would not care to disagree with."

Same page, second paragraph, should read: "No doubt, the argument will be used that this Act is purely a social one but with this we don't agree. We can't see how it can be social legislation when one must have military service to qualify"; then it reads, "I have before me."

Page 68, where it reads "I will now refer you to Hansard, on Page 1335." after the word fifty-five, it should read: "It would be much better to cut out all the words after fifty-five as I am afraid that the same construction will be placed on the word, 'incapable' as is now placed on the words 'permanently unemployable.'"

Same page, in my reply to the Chairman, it should read: "I am glad to see that provision is made for the continuance of the three Members," then it goes on to read, "More work."

Page 71, last line of first paragraph, should read: "Five hundred and twenty" instead of "six hundred and sixty."

Page 74, under the paragraph by Mr. Mutch, should read: "The fuel is reasonable, we have natural gas."

Second last paragraph, same page last line, the word should be "element" instead of "elements."

Page 75, fourth line "— unemployable" should read: "permanently unemployable."

Page 77, first line, after "50 to 55" should read: "And I, also, figure what they pay."

Third line same page instead of "get the costs" should read: "I obtain from them."

Page 78, seventh line, "As far as it concerns."

Page 80, second paragraph, fourth line, should read: "Upper House."

On motion of Mr. MacNeil it was ordered,—

That the Memorandum submitted by Mr. Bowler on April 22 respecting the operation of the Canadian Legion Dominion Headquarters Service Bureau, be printed as Appendix B with to-day's evidence.

Mr. J. R. Bowler, Secretary, Canadian Legion, British Empire Service League, was recalled, examined and retired.

Mr. Richard Hale, representative of the Tubercular Veterans' Association, and Chief Pension Adviser to the Canadian Legion, was recalled, examined, and retired.

At 6.25 p.m. the Committee adjourned, to meet again on Friday, April 24, at 11.00 o'clock a.m.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

April 23, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 4 o'clock, Hon. C. G. Power, the chairman presided.

The CHAIRMAN: Now, gentlemen, we may proceed. I have to file a report on meritorious pensions, section 21, which will be placed in the record as an appendix.

(Statement on meritorious pensions appears as Appendix A to this day's proceedings.)

I also have a letter addressed to Mr. Bowler from Mr. Walker asking that certain corrections be made in his evidence. The corrections will appear in the minutes of proceedings.

Then there is a letter I have just received from the Canadian Corps saying that they would like to be here on Monday and Tuesday. I think that is all right. I think if possible we should meet Monday morning.

Sir EUGENE Fiset: There is no objection to meeting Monday morning.

The CHAIRMAN: I think, then, we will decide to meet Monday morning.

Mr. BOWLER: May I ask that we now go back to the procedure which we started at the beginning of the week. It was understood that after I had finished my evidence Mr. Richard Hale would follow me. Mr. Hale deferred to Captain Gilman who was not well and had to return to hospital. I would like to call Mr. Hale who appears as the representative of the Tuberculous Veterans' section of the Canadian Legion; and in further explanation I would say that the Tuberculous Veterans' section of the Legion is the original Tuberculous Veterans' Association of Canada which came into the legion when unity was consummated in 1926.

Mr. RICHARD HALE, called.

The CHAIRMAN: Proceed, Mr. Hale.

WITNESS: Mr. Chairman and gentlemen, I should say at the outset that besides being the representative of the Tuberculous Veterans' section and its chief pensions' adviser I have the honour also to be the chief pensions' adviser of the Canadian Legion, since June 1934.

Mr. MACNEIL: If I may be pardoned for interrupting for a moment, I would like to inquire whether a memorandum submitted by Mr. Bowler yesterday is to appear in the record?

Mr. BOWLER: Mr. Chairman, I filed a memorandum the other day, and I think the secretary has it. I do not believe any consideration was given to it at that time as to whether it should go in the proceedings.

Mr. MACNEIL: In your absence yesterday, Mr. Chairman, a great deal of evidence was given showing the difficulty which men encounter in properly presenting their cases; and may I suggest that this document be included as an appendix to the record.

Mr. CHAIRMAN: Very well.

(Memorandum appears as Appendix B to this day's proceedings.)

WITNESS: In the first place I would like to make it clear that the Tuberculous Veterans' section endorse the expressed views of the Canadian Legion as given to you by General Ross and Mr. Bowler. There are some points, however, upon which, we feel, something should be said, first, with regard to the proposal to establish an appeal division of the Canadian pension department which is provided in bill 26, section 3, sub-section 2. In 1930 the Tuberculous Veterans' section were not enamoured of the proposal under the pensions set-up, although we were, like a great many other people, willing to give it a trial. The chief objection we had was that the constitution of the Pension Appeal Court was to be strictly legal. We had felt that in times gone by the cases with which we had to do were largely medical in character, and it was very difficult for us to understand how an entirely legal body was going to function satisfactorily in dealing with medical problems. Of course, later a medical advisor was appointed to the court and we thought, perhaps, that might overcome the difficulty. I might say this much that the Pension Appeal Court before whom I appeared on a number of cases bore out our worst fears. They dealt with some very difficult medical problems and they showed that they did not know exactly what they were doing. Then, when medical opinion of the highest character was submitted to them they seemingly did not give the proper amount of weight or consideration which we felt it should have. Earlier in the proceedings, Mr. Chairman, you stated that pension counsel had sat down on their job somewhat in the districts. That may have been true in some areas, but I must say it was not so in the Pension Appeal Court. The pension counsel did a very thorough job. They used to present a very good precis to the court covering all the facts of the case. They followed it up by some very definite and formidable arguments in which they pointed out with unerring accuracy all the defects that could be pointed out in the case, with the result that the court were confronted with that—the applicant, of course, not being there—and the attitude of the court apparently being one of a very critical nature. That is the explanation, I think, as to why so many of these cases failed in the court. In fairness to these gentlemen I would say this much, that they certainly did a very thorough job; they used a very powerful microscope on all the evidence that I saw them consider and all the defects, whether they were minor or major ones, were shown up, and shown up to the disadvantage of the applicant in every possible way. I feel that the Veterans' bureau have done a very fair job in that court—a very difficult task they have to perform. There was some criticism amongst veterans generally about the decisions of the court, and in some cases they have, I think, very unfairly placed the responsibility on the Veterans' Bureau, where it should not be.

*By Sir Eugene Fiset:*

Q. May I ask one question? Yesterday when another witness was giving some evidence he stated to the committee that a board of consultants had been assembled by the Department of National Health to draft certain rulings that may be used as a guidance to the Board of Pension Commissioners. May I ask when this took place, and when that board of consultants was appointed, and to what extent did the rulings that they gave afterwards affect the rulings given by the board?—A. Well, sir, replying to your question, the tuberculosis consultants' board was appointed in 1927.

Q. How long did they sit?—A. They sat for a matter of four or five days in the city of Toronto. They were appointed by the government, and they included tuberculosis specialists from practically all over Canada, together with certain departmental specialists. Their method of procedure was that Captain Gilman and myself who, in that instance, were representing the Tuberculous Veterans' Association, appeared before them and presented certain questions regarding certain problems. The report that they made was very useful in that

[Mr. Richard Hale.]

it settled certain questions, but it did not settle the question of attributability definitely, although it did help a great deal in the views that it expressed. I would prefer, of course, not to pass any opinion on the suggestion which was made yesterday as to its merits or otherwise. I would say this much that medical consultations are a very valuable thing, provided that we can get from them some very definite information which will be acceptable.

Q. What I wanted to get at was: Where those consultants did make a report to the department was that report used in any way, shape or form either by the commission or the court of appeal?—A. Well, in those days the Board of Pension Commissioners was the body that was sitting and the Federal Appeal Board was the body dealing with appeals from the commission. The Board of Pension Commissioners accepted several of their recommendations particularly with regard to medical examinations by tuberculosis specialists in chest cases. They also accepted their recommendation with regard to decisions having to do with aggravation of disease. They also accepted some set procedure with regard to non-tuberculosis chest cases as to medical examination procedure. With regard to the large question of attributability, however, it helped only in this way: the recommendation of the committee was that the tuberculosis specialists should have access to all the records and have the man for examination and then make their report; but they did not feel that they should be asked to sit in judgment on the cases.

Q. No, of course not. Thank you.—A. Now, I made those preliminary remarks, gentlemen, for this reason, that we are not objecting particularly to the proposal in the bill to create an appeal division, but we are expressing the opinion that we are extremely doubtful as to whether it would be satisfactory.

*By the Chairman:*

Q. What would you suggest? That we drop it altogether? Why don't you come out flatfooted if you do not want it and tell us so?—A. We are doubtful.

Q. I do not think anybody is wedded to it, but if the soldiers will say they do not want a thing let us know and we will know what to do with it?—A. Mr. Chairman, I would like to make this very clear. There should be retained the right of appeal of the soldier against the decision of the commission, but just as what form that should take is another matter. In 1930 you will recall we had the Board of Pension Commissioners and the Federal Appeal Board. Then were set up in 1930 the Pension Tribunal and the Pension Appeal Court. You will recall that we objected very strenuously to the set-up unless we were assured that the medical balance in these bodies would be preserved, and, subsequently, when the personnel was appointed the Pension Tribunal had one medical man as the chairman and there were no medical men whatever on the Pension Appeal Court. We may be wrong, but we feel that the experience of the last five years has shown that that was a mistake and is responsible in some measure for the failure of the machinery to function. I take it, sir, that in this proposed appeal division which will be drawn from the personnel of the Canadian Pension Commission that situation will not arise, because you will have medical personnel sitting there and you will also have legal personnel. In short, we are trying to stress that in the adjudication of pension there must be balanced opinion; it cannot be one-sided. If it is entirely medical it is unsatisfactory, and if it is entirely legal it is not satisfactory; but you can in a balanced board obtain a consensus of opinion which ordinarily is fair.

*By the Chairman:*

Q. What about the people who are neither medical or legal?—A. Well, the layman has done his part in this business, and in certain instances the layman is a very good balance as between two professions who certainly have not agreed very much as far as pension history goes.



Q. If you had to have somebody who is familiar with agriculture and another fellow who is familiar with labour we would have pretty big boards, would we not?—A. I realize that we cannot accommodate every desire, but the ideal board has proven to be, at least, a balanced board, whether it is balanced by having legal and medical personnel with a layman. A layman and medical men often make a good combination, and there has to be some leavening in the board, otherwise you get a one-sided point of view.

Q. Is your suggestion that the board should be composed fifty-fifty of legal and medical men, or is there any proportion that you have in mind?—A. No. I think the proportions should be as even as possible or as is practicable to use in Canada.

Q. What is it? We have heard these statements made, but I would like to know what, in your view, it should be?—A. The ideal board, Mr. Chairman, is a lawyer as chairman and a medical man and a layman to sit with him.

Q. You would have a board of three on every quorum then?—A. Yes, I think that is ideal. I might say that is not altogether my own idea. You will find a very eminent gentleman who was a member of the Pensions Appeal Court stating in the 1933 report, "an appropriate combination for hearing pension claims would be a lawyer and a doctor. The experience of the lawyer would be valuable in the creation of the record, that is, in insuring that the evidence is the best obtainable and is material, and in sifting the evidence. The knowledge and experience of the doctor would be valuable, not for the purpose of giving decision on the basis of that knowledge and experience, but in directing the medical and other evidence along the lines necessary for consideration of the claim under adjudication. The presence of a doctor on the adjudicating body would render a medical adviser unnecessary."

Q. If we still keep to our boards of two, this would have nothing to do with the layman?—A. The layman is not altogether necessary, maybe, in some of these boards, but I suggest that it makes an ideal board when we have all three elements present.

If you want to go back into history to look at this question, I might point out to you that the Medical Appeal Board which functioned from 1919 to 1923 was constituted by the department and consisted only of doctors. They did a very good job from a medical point of view, but it resulted in a great many complaints that it was part and parcel of the department and that it was influenced by the Pension Commission, and it had a great deal to do with the findings of the Ralston royal commission when they created the Federal Appeal Board.

The next point, Mr. Chairman, is this. You made some remarks the other day about this hammering business on the Pension Commission, and as I have been a pretty fair hammerer for some years I feel I am more or less compelled to make some kind of defence of the hammering. As a matter of truth it is not a question of hammering at all; it is a question of negotiating a difficult settlement. These cases do not come to us out of the blue sky. We very seldom see a case that has not been rejected, as far as the Canadian Legion headquarters are concerned, nor do many of the service bureaus of the Canadian Legion receive cases of that type. The returned soldier invariably, when he finds himself in severe circumstances, is sick, or has some condition which he associates in mind with his service, makes a claim for pension or writes some kind of letter which asks for assistance either by way of pension or by way of medical treatment—very often for treatment. These cases come to the commission and are dealt with, and the commission send out a questionnaire and ask for information and so on. Very often that man has no idea at all of the value of the evidence or how to proceed, and the result usually is a rejection of his claim. It is then that he turns to the service bureaus or some other agency to assist him—very often members of parliament—but you know

[Mr. Richard Hale.]

all about that side of it. The procedure that we have adopted over a period of some seventeen years, I may say, has been that a good understanding of any claim is essential from the start, if you can get it. It is not always a question of getting a judgment; a discussion of the difficult point and discussion of the basis of the claim often will result in a very clear understanding of both sides as to whether or not the claim is valid in the first place; and secondly, whether or not if it is a valid claim, the evidence can be improved; whether or not a medical opinion will be of assistance. And right there I would like to stress this particularly that I think a lot of our difficulties in connection with these pension claims have been because the applicant has not been examined in the beginning. It is rather astounding the number of cases where we find the diagnosis is wrong, not because the medical man in the district has made a very bad mistake, but rather because in some isolated places he lacks the facilities for finding out all about the condition, and you get a diagnosis which is proceeded with and his evidence does not support the claim because the condition, which is diagnosed is not chronic condition, and any adjudicating body which is confronted with an acute affliction of some kind and asked to say it resulted from war service which terminated fifteen or sixteen years ago can only reject such a claim. Our suggestion is that when an applicant applies for pension and everything indicates that he has a chronic condition the first procedure shall be to examine him thoroughly to ascertain definitely just what is wrong with him and whether or not the suggested diagnosis is correct.

Q. Examined by whom?—A. By the Canadian Pension Commission, who will call him in for examination and have him thoroughly examined—all his symptoms examined, so as to arrive at a correct medical factor from the very outset of his claim.

Q. The kind of argument I so often hear is that either the departmental doctors or the pension doctors are no good, that the only ones to decide are outside doctors who give an opinion in favour of the pensioner. What will be the use of examining if nobody will take the examinations as being complete?—A. Well, there is a lot of difference in examination in a matter of medical opinion. I am referring to a correct examination where, for instance, in the case of a heart condition you get an examination by a competent heart specialist with an electrocardiograph, and you have a correct medical picture from the beginning. Hundreds of claims have been made for what is known as disordered action of the heart. The man submits all kinds of evidence from lay persons and others and all show that he was short of breath and he had all kinds of indication of disordered heart action. That man is not examined, and his case is rejected by a commission. He proceeds to a quorum and the quorum study the evidence, and the advocate does his stuff, and the claim may or may not succeed. If he does not succeed he appeals to the appeal court and then you find afterwards the appeal court has rejected the claim and proceed to examine the man and finds that he has some other condition which is causing him to have a disordered action of the heart. That often obtains in tuberculosis cases, and it is all a waste of time and money. Furthermore, Mr. Chairman, I know you are as deeply concerned as we are with regard to what have been termed frivolous claims. One way in our judgment to prevent frivolous claims is just this procedure.

I know that it may be said that men do not accept the medical opinions and reports of the department at all. But on the other hand I have also found this, that when a doctor takes that man into his confidence and tells him, you have an acute condition due to infected teeth or infected tonsils which cannot by any stretch of the imagination be the result of your war service, ordinarily 90 per cent of returned soldiers—and I may say that in my opinion returned soldiers are very reasonable men—would accept that. We have that all the time, good fellows who have been led to believe that some very acute

illness which they have now is associated with some sore tooth or some ache in the back which they had on war service; and it takes some very good sound common sense, even on the part of a medical man, to convince him that he is wrong. You would prevent a whole lot of these cases if that policy were changed.

*By Mr. Thorson:*

Q. By whom would you have that examination made? You suggest an examination in the case of each application?—A. Not in the case of each application, each application for a chronic disease.

*By Mr. MacDonald:*

Q. By whom would you have that examination made?—A. I think it would have to be made by the department; but in that case the medical profession outside might be consulted a little more than they have been. By that I mean there are very eminent physicians who have examined soldiers and who have made diagnoses under proper conditions, and they have found that a certain disease existed.

*By Mr. Mutch:*

Q. In the case of outside doctors who would pay the shot?—A. That, of course, is one of the bones of contention at the present time. During the previous hearings of this committee I have heard certain expressions made with regard to that question, and it is a very burning question because on the one hand the department has some very eminent specialists who make reports and on the other hand the veteran often feels that their conclusions and their opinions are not sound. That is why I suggested that a private practitioner should perhaps be given a larger place in the picture.

Q. Your idea in suggesting that is that he is more likely to persuade a man to take the result of an examination, where they have present a doctor whose opinion would be considered by the man as being unbiased, rather than a doctor of the department?—A. Yes, if a private practitioner from outside is within a reasonable distance, and many of them are, I do not see any reason at all why when a man is examined he can't be consulted. Medical consultations are held every day on civilian cases, and it would save a great deal of money in the final analysis if you could persuade that man not to proceed with a claim which was not justified. That would be the result, because he would have confidence in the fact that his own physician was present. I do not say that it is practical in all cases, but in these complicated cases of chronic disease very often a doctor has had a man under his care for a long time and knows his case.

*By Mr. Thorson:*

Q. Do you think that would result in any appreciable reduction in what has been termed the frivolous type of case?—A. I think so, because I consider that 90 per cent of returned soldiers are very reasonable people. That has been my experience of them. And I may say this, even after I have personally gone into a case (and this is done all the time) have consulted the physician and discussed it with the Pension medical adviser I have written to that man and seen him and explained to him that the condition for which he is claiming pension could not possibly be of 15 or 16 years duration and that therefore he has no valid claim. Ninety-nine times out of hundred a man will accept that. The odd fellow will not, because he is convinced in his own mind and nothing can change him. A great majority, however, I think would accept it. In that way you would bring to an end a great many of these claims which are frivolous in this way, that the condition for which the pension is claimed could not possibly on medical grounds be the result of service, or be contracted so many years ago.

[Mr. Richard Hale.]



*By Mr. Macdonald:*

Q. I have in mind many cases where the private practitioners have encouraged an applicant that his claim was valid, and then he goes before a quorum and is turned down; how would we get around that? Would we do that by having other medical advice?—A. Well, there are different cases, of course; and there must be these cases—where the physician having studied the case and having reached an opinion about the duration of it has told the applicant that he is quite satisfied that it is of that duration, that it is the result of his service, that it is related to some extent to service; in that case that applicant is quite entitled I submit on that decision to go on with his claim.

*By Mr. Mutch:*

Q. Would it not be the case generally that a man who is refused a pension after being advised by a competent physician to apply is interested in knowing why he was turned down by people other than physicians on this medical evidence. If that is the case there must be a tendency to disregard that kind of medical evidence?

The CHAIRMAN: Don't you think that a man's private physician is the one in whom he has confidence, and nothing is going to change his mind as to that man's opinion on his case.

Mr. MUTCH: He is the one who tells him what he wants to know, and we don't need to restrict that to returned soldiers, or doctors or anything else.

The CHAIRMAN: Well then, why not follow that to its logical conclusion and see to it that in some way medical advisers are there to give evidence before the court. I am trying to see if there is anything logical in that. It has been suggested here before that we do away with all medical men in the department and let the man bring in his own doctor to tell his story.

Mr. BROOKS: I think the local doctor can be depended upon to be prejudiced in favour of the man.

The CHAIRMAN: That was the objection at that time. It is very difficult for a doctor who has been treating a family for a period of years to come in and give evidence.

Mr. BROOKS: He would not do it.

The CHAIRMAN: And that brings us to the point where almost of necessity we must have departmental doctors.

Mr. THORSON: Yes.

The CHAIRMAN: I think we must do that.

Mr. HARTIGAN: The only value you could put on the opinion of an outside doctor would be its weight as evidence, that is all; otherwise, you nullify the effect of the pension board. Where would the pension board be?

The CHAIRMAN: An amendment was proposed in the House in 1930, I do not remember the exact wording of it, to the effect that if an opinion had been obtained from a competent physician the crown should grant a pension then and there.

Mr. THORSON: The onus shifted.

Mr. REID: In many cases the medical men of the department say that a man is not suffering from a service disability, while a medical man outside of the department says he is.

Mr. MUTCH: I do not think that is the real complaint. I think the main complaint is where a man gets good medical evidence and that evidence is rejected not by the pension doctors but by men who are not doctors at all.

*By Mr. Hartigan:*

Q. That medical evidence would have to link up with service wouldn't it?

The CHAIRMAN: Yes.

WITNESS: I do not wish it to be understood that we are suggesting that you abolish all your medical staff or anything like that. We are suggesting that there should be a greater degree of medical consultation with a view to satisfying the applicant that he is getting a fair consensus of medical opinion.

Mr. THORSON: That again I suppose is a matter of administration, and a check-up of the case of each individual man.

Mr. BETTS: Could Mr. Hale give us any estimate of the percentage of cases which reach the commission now in which the man has not been examined by a doctor?

WITNESS: I would not be prepared to do that.

The CHAIRMAN: There would be very few.

Mr. BETTS: That is what I was wondering.

WITNESS: You see, in the first instance the claim has to be supported by a medical certificate; therefore, there has to be examination.

Mr. THORSON: And diagnosis.

Mr. MUTCH: Isn't there a suggestion that there should be a reference to a specialist along certain lines?

The CHAIRMAN: Yes.

*By Mr. Thorson:*

Q. You are really supporting in a sense the representations made by Captain Gilman yesterday?—A. Not to the same degree.

Q. You do not go as far as he did?—A. As far as these medical consultants are concerned the individual application for chronic diseases is after all a bone of contention to-day. There is no real case for a man with an acute disease, because medical opinion is definitely opposed to them anyway. It is the chronic disease class that gives us all our difficulty.

Mr. THORSON: And they are related to the types of cases that might be dealt with.

*By Mr. MacDonald:*

Q. Aren't practically all these cases now referred to specialists if there is any doubt?—A. No, sir. I may say though that the commission ordinarily are very fair in the matter of obtaining medical opinion. The difficulty arises, however, in the question of costs. For instance, one man comes forward claiming that he has a certain chronic disease and supports it with a medical report and a diagnosis. The degree of chronicity and the various factors in his disease are perhaps not fully brought out in that report. In our negotiations with the commission we will ask the commission to submit that man to a specialist, or to a hospital where he can have a complete check up on all his symptoms and the true character of his disease brought out. So far this is perfectly satisfactory and very good, but the trouble arises then along the lines that members of the committee have been mentioning here for the past few days, in that the opinion is expressed by the departmental specialist; particularly in these mental cases it is often the case when that opinion is expressed—and here is a very important point—the commission are practically compelled to accept it, and they give a judgment on that opinion and that diagnosis is placed before them by the departmental specialists. It is then that the soldier turns around and says that he has no confidence in the opinion expressed. In the 1930 legislation there is a provision and it is still in the Act, that when that case

[Mr. Richard Hale.]

goes to a quorum of the commission the man has the privilege of seeking a specialist at the expense of the state. We were very well satisfied with that provision in 1930, and it has helped a great deal with respect to getting the opinion of specialists on the side of the man at the expense of the state; but the failure of the pension machinery, gentlemen, is that the opinion has not been accepted; and I have here selected three cases. I am not going to tire you with all the details but will read just enough to give you an idea as to why or how they are not accepted. Will you permit me to recite this case in particular:

Here is a man who enlisted on Nov. 3, 1915. His weight is 130 pounds. He served in France. He was discharged as medically unfit on the 27th March, 1919. Now, during his period of service he was hospitalized for inflammation of the tonsils in December, 1915, for seven days; and for a recurrence of inflammation of tonsils in January, 1916. From August 5, 1916 to December 11, 1916, he was in hospital with a gunshot wound in both sides and a diagnosis was made of malaria—although that was supported by definite blood tests. He was hospitalized for 129 days and the description of him is that he was very anaemic. Subsequently he returned to the line and on August 26, 1918, he suffered a gunshot wound on the left arm and a fracture of the radius and was in hospital until January 10, 1919—139 days hospitalization. During this hospitalization there was a record of his complaining of epigastric pain.

*By Mr. Chairman:*

Q. What is that?—A. That is a pain in the epigastric region. Perhaps General Fiset could explain that. There was a medical board held on March 17, 1919, which describes the gunshot wound, and the medical board after examining him very carefully came to the conclusion that they could not actually diagnose what was wrong with him, so they termed him neurasthenic. His weight was 124 pounds, so that there was a loss of 6 pounds during service. After all this period of service and all these wounds and so forth. Now, that man was treated by Dr. McKay in 1919 for bronchitis, and by Dr. McCormick in 1920 for bronchitis and emphysema. In 1922 he was treated by the same physicians, and it is noted that emphysema is not an acute development, rather the result of an old damaged lung tissue. These doctors practice in small towns and could readily recall their treatment of the man. The only definite record in the book was in 1922 by Dr. McCormick. On discharge he had been pensioned for a gunshot wound. In 1920 he accepted a cash settlement, commuted his pension. In 1930 he applied for reinstatement and makes some complaint. Now, at this time a diagnosis was made of bronchitis. Now, here is my point about this question of difficulties: no x-ray was taken of his lungs. No effort was made to find out what the real nature of his trouble might be until November 9, 1933, when an X ray disclosed a far advanced condition of long standing pulmonary tuberculosis.

*By Mr. Thorson:*

Q. And you say that was in 1933?—A. That was in 1933. That case came before the Pension Tribunal and the man was granted entitlement to pension for his pulmonary tuberculosis. His tuberculous condition was recognized by the specialists who expressed a favourable opinion based on his hospital record and on his findings. The crown appealed. The case came before the Pension Appeal Court. They considered the record unsatisfactory and referred it back to the Tribunal for further hearing. In the second hearing it so happened that the Pension Tribunal had been abolished and it came before a quorum of the Canadian Pension Commission and here arises a most strange circumstance of this particular case. Dr. McKay, as I have enumerated, treated this man in 1919. The advocate very naturally had placed Dr. McKay's name on the form



required to be called as a witness, one of the main witnesses in the case; but, we find that one of the commissioners who has the authority to say whether a witness shall be called or not decided that Dr. McKay's evidence was not important. The commissioner was one who sat in judgment on the case. The quorum after due consideration of all the evidence, without Dr. McKay being there, gave a decision that the tuberculosis was not attributable to military service. That case was appealed to the Pension Appeal Court. I appeared myself so I know exactly what happened. It was an endeavour to have the case referred back in order that Dr. McKay might be called and his opinion secured. One of the commissioners of the quorum which sat in judgment absolutely refused to consider the matter, or to have Dr. McKay's evidence taken in any shape or form.

*By Sir Eugene Fiset:*

Q. But, the specialists' examination was put before a court. Did it specify that the permanent disability he was suffering from was due to war service?—  
A. That was the opinion expressed by the specialist.

Q. It was?—A. Yes.

Q. You are sure of that?—A. Yes.

Q. You did not say so when you mentioned it?—A. Yes.

*By Mr. Thorson:*

Q. The T. B. specialist gave the opinion?—A. Before the Pension Tribunal.

Q. And it was rejected?—A. Yes.

*By the Chairman:*

Q. You are complaining now of one member of a quorum?—A. Well, I am complaining of the general method by which they operate.

Q. Was that general, that a member of the quorum would do that—I don't want to mention any names?—A. It was not general, no.

Q. That is a particular case?—A. It is a particular case, but it brings out this point that the members of the commission have the right in co-operation with an advocate to say whether or not a witness will be called. We are not objecting to that particularly because in some cases unnecessary witnesses have been called. But it does look very bad when an advocate's chief witness is not called, and when he is not called because one of the commissioners who sits as a judge in the case says he shall not be called.

*By Mr. Thorson:*

Q. Was this doctor who was not called a man of standing in so far as tuberculosis was concerned?—A. No. He was a general practitioner. He treated the man in 1919.

*By Mr. Macdonald:*

Q. Did they have a statement as to what Dr. McKay found in 1919?—  
A. Yes. The statement was on file.

Mr. THORSON: His diagnosis was bronchitis.

*By Mr. Macdonald:*

Q. What more evidence could Dr. McKay have given to supplement his statement?—A. Well, he could have given of course an explanation as to how he recalled the treatment. The big point in these cases is that unless he has definite records, he has to have not only the dates of his visits but also the description of the man and some details to show what was wrong at that particular time.

[Mr. Richard Hale.]

Q. He had all that in his report, I believe?—A. He certified that he had treated him for bronchitis on several occasions; but that is not sufficient in the minds of those who are judging, he has definitely to show that there is something wrong.

The CHAIRMAN: I think that is an objection reflecting on a member of a quorum. I do not know who he is and I have no means of finding out. But if some member of a quorum arbitrarily refuses to receive important evidence—I don't want his name mentioned here—I think you can make a complaint and I will ask him to explain it at least. However, I have no control over it. Your complaint there is against a judge, as I understand it.

The WITNESS: I think the complaint is very sound in so far as that man is concerned.

The CHAIRMAN: Now you are complaining of the commission, that is, of the quorum.

Mr. THORSON: After all, it was remitted to the quorum.

The CHAIRMAN: It was remitted to the quorum.

Mr. THORSON: It had been tried by the tribunal first.

The CHAIRMAN: What I would like to get at is, this may be some individual cases; is it the custom of members of the quorum arbitrarily to refuse to hear evidence. If that is the case we should look into it.

The WITNESS: I would not say it is general.

Mr. BETTS: May I say this: I can imagine situations in which courts of appeal would say, we will accept Dr. McKay's evidence.

The CHAIRMAN: Yes.

Mr. BETTS: They would say, the record is there and we won't call him. Did that happen?

The CHAIRMAN: There should be no real reason why an appeal court should hear him. That case had already been heard by the tribunal where the man was present and where Dr. McKay gave his evidence. It was remitted for further evidence and apparently the quorum just decided that they didn't need Dr. McKay's evidence for some reason or other which I do not know. Then when it went back on appeal I would think it quite probable that the appeal court was justified in saying, we do not need to hear him, why should we? I do not think it is a criticism of the appeal court. If there is criticism of anybody it should be of the quorum, don't you think?

Mr. MACDONALD: I think, Mr. Chairman, that they received Dr. McKay's evidence on the first hearing and no doubt it was all taken down and presented to the second court. When it was presented to the second court no doubt the second court would say, has Dr. McKay anything further to add? The answer would be; no, just the same as he had before. Well, then, there is no use in our hearing him again, we have it all here.

The CHAIRMAN: That may be.

WITNESS: Replying to that I do say this, Dr. McKay never appeared in person at all. There was a certificate in the first place.

*By Mr. Thorson:*

Q. He did not appear before the Pension Tribunal in the first place?—A. No. And the court when it remitted the case expressly said he should be called in person to give evidence and explain his statement.

*By Mr. MacDonald:*

Q. That is, with the consent of the advocate?—A. Of course. The advocate requested that he be called, and the quorum, or a member of the quorum who has to authorize his attendance, does not do so.

The CHAIRMAN: Your complaint is purely against the quorum and not against any matter of administration or ordinary procedure I would say.

Sir EUGÈNE Fiset: What was the official capacity of Dr. McKay?

The CHAIRMAN: That does not matter in the point under consideration, if what our friend Hale says is correct. I imagine the case is one in which the quorum received instructions to hear a certain witness and did not do it.

WITNESS: I am going to file preces of these cases and I would suggest that members who take the trouble to look at this file will be surprised at what they see.

There was just one other case here which I would like to mention because General Sir Arthur Currie was very much interested in it. It is further proof of the point I made with regard to the opinion of specialists. It is an extraordinary case, but it is not an exceptional case by any means. There are many other cases of similar character which have been treated in like manner. This man enlisted in July of 1917. He served in France and was discharged in March of 1919. He received a gunshot wound in the knee. He was hospitalized from September 29 to December 5, 1918; and for influenza from February 18, 1919, to March 3, 1919. There was a medical board held on him previous to discharge which showed that his weight had greatly decreased. In August of 1931 this man appeared before a French tribunal, which gave a judgment of pulmonary tuberculosis attributable to service.

*By Mr. Thorson:*

Q. Is there any record of treatment between 1919 and 1931?—A. Oh, yes, I am going to deal with that. In 1919, when employed as a butler, the man became ill and was treated by his employer's physician, Dr. W. Chrystie. He is a very eminent physician practising in Pennsylvania. On November 9, 10 and 11, 1919, which dates we specifically note, Dr. Chrystie certified that he had a pulmonary condition which he considered to be an early pulmonary tuberculosis. There is evidence on the file from the employer of the man that in February, 1920, after his illness from which he never fully recovered, the employer paid the man's expenses to England (he was an Englishman) in order to give him a chance to rest and recuperate in his own country. The man returned from England in 1921 and considerable evidence was available showing continuity of symptoms of pulmonary disease, necessitating his seeking lighter employment at various times, the purchase of lung remedies and so forth. It was at this time that he apparently came under the eye of General Sir Arthur Currie, who gave him a position as janitor at McGill University.

Q. Were X-rays taken at that time?—A. I am coming to that. Three specialists examined this man. All three of these specialists made examinations by the use of X-rays, and all other ways of testing a case of tuberculosis to find out how chronic the condition was; and they expressed the opinion that on the history and their finds it was related to the influenza which the man had had on service.

*By Mr. Thorson:*

Q. What date was that?—A. Influenza was in February of 1919.

Q. But the examination by the board?—A. The examination by the specialists was in 1932 and 1933. Now on the first hearing by that court the court remitted the case to the tribunal for further hearing on the grounds that Dr. Chrystie had not appeared as a witness in the first instance. He is living in Pennsylvania. In order to overcome that difficulty a special arrangement was made and Dr. Chrystie's evidence was taken by commission. An official in the United States interviewed Dr. Chrystie and took his evidence under oath, and he substantiated his statement. The Pension Tribunal, getting this evidence

[Mr. Richard Hale.]

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again, rendered a favourable decision, and again the Crown appealed. On the second hearing the court allowed the Crown's appeal and referred to the opinion of the specialist as pure guess and speculation and stated with regard to Dr. Chrystie, "it was contemplated that Dr. Chrystie would appear in person to give his evidence before the Pension Tribunal, and he did not do so." There is no provision made for bringing witnesses from the United States to Canada, and it was absolutely impossible for Dr. Chrystie to come from Pennsylvania to Canada to give his evidence in this case. But his evidence was taken under commission, which, it was felt, met the situation.

Now, these are the kind of cases, gentlemen, which the veterans—we cannot blame them—feel very keenly about when they are treated in that particular way. That man is dead now. He died between the second Crown appeal and the hearing of the case, leaving a widow and three children, and the point that worries us in Canada is that if cases of that kind—of that character—supported by such evidence, cannot be admitted by the state under the system of adjudication we have we would like to know exactly what can be done.

Q. That is what we would like you to tell us.

*By Mr. Hartigan:*

Q. In what year did that man die?—A. 1934.

Q. That was acute tuberculosis, though?—A. No, sir.

Q. Did he die of tuberculosis?—A. Yes, sir.

Q. And what year was the first year that they had a history showing that he had tuberculosis?—A. 1919 when Dr. Chrystie treated him and said he had early pulmonary tuberculosis.

*By Mr. Thorson:*

Q. And then the X-rays were given in 1932?—A. Yes.

Q. And did that show that the disease was long standing?—A. It was an advanced case of lung calcification, chronicity of the lung. Now, I do not want to weary you with the details of cases. I am merely quoting these two cases in order to give you some idea of the tremendous amount of work that has been done on these particular cases, and yet with no favourable result in the one case. In this case I quoted first, I may say that that man, with all the battering he took on service, has been very independent. He has now surrendered his return soldier insurance. He has two children who have tuberculosis, one girl with tuberculosis of the spine; and we feel very keenly that there is something radically wrong with the whole business when such a thing can happen. The disease has been transmitted to his family, and there is the situation.

*By the Chairman:*

Q. Are you prepared to condemn the whole system of adjudication and courts and everything else because in one or two cases the courts rendered what you consider unjust decisions?—A. No. These cases I have quoted are examples; but I venture to say this much, that a review of the court's judgments will corroborate the statement that they have disregarded the highest specialist medical opinion in this country, particularly on tuberculosis and, therefore, that is why we have not had confidence in them for some time past. As a matter of fact, I may say quite openly that I was instructed by the Tuberculous Veterans' section two years ago not to proceed with any further claims before that court, and I had a very unpleasant job in having to tell them very frankly that that was the case—that I could not proceed. Afterwards they kind of said there was not going to be any change in the situation, so we had to do something. These men were dying. That is responsible for the lack of confidence to a large extent—the disregard of the opinion of men of outstanding prominence in this country.

Q. Now, I was more or less instrumental in setting up these courts and Mr. Thorson was on the committee and General Fiset as well, and whether you call them tribunals or anything else I would like to get from you your considered opinion. We thought it would be the best thing to give the man his day in court, to bring his witnesses and to let us get some kind of finality. Probably we did not achieve all we expected.

Sir EUGÈNE FISSET: You could go farther; we accepted the scheme submitted by the legion.

The CHAIRMAN: Yes. At least they approved of it.

WITNESS: We did not submit it.

The CHAIRMAN: Ninety per cent of the people who were concerned with soldiers accepted it. Now, I have no strong views on the matter. It does not matter to me. If the soldiers themselves will come to us and ask us to go back to the old pension system, I will be prepared to consider it for one, but you cannot have everything. I mean you cannot have two or three systems working at the same time. If we are going to set up courts, let us have some confidence in the judges.

Mr. MUTCH: It is not a criticism so much of the system as it is a criticism of the way the system has worked.

The CHAIRMAN: No, Mr. Hale's is a criticism of the system. He does not like the system of adjudication.

*By the Chairman:*

Q. Is not that right, Mr. Hale? I am not complaining of your evidence.—

A. I think that the trouble is not the system as much as it was the constitution of those who were making the judgments.

Mr. MUTCH: The personnel.

WITNESS: The constitution or personnel of that court as being an entirely legal body.

Mr. MUTCH: The criticism has been raised all across this country; it is not a political question. In other words, the men have said that the system set up is all right. I have had criticisms all the way from privates to generals with respect to personnel.

The CHAIRMAN: I think Mr. Hale goes further than that; he does not like the system of adjudication at all.

Mr. THORSON: I was going to ask Mr. Hale what his opinion is as to whether or not the right of appeal from the quorum should be restricted or limited?

WITNESS: Well, I must say, Mr. Thorson, that in 1930—

Mr. THORSON: We gave an appeal.

The CHAIRMAN: The soldiers wanted it.

WITNESS: The right of appeal can be taken in two different ways. At one time we had the right of appeal from the Board of Pension Commissioners to the Federal Appeal Board.

Mr. THORSON: Yes. That was only at the suit of the applicant. There was no appeal at the suit of the commission.

WITNESS: No.

Mr. THORSON: In 1930 we gave a right of appeal to both parties, both to the applicant and to the commission.

The CHAIRMAN: That did not work well. That has been changed since the 1933 legislation.

Mr. REID: Is it not a fact that commission counsel caused the trouble?

[Mr. Richard Hale.]

The CHAIRMAN: It is an appeal by that reviewing officer, and he has taken less than ninety cases.

WITNESS: There is no objection to the present procedure as far as the Crown appeals are concerned.

The CHAIRMAN: It is to the judgments of the court.

WITNESS: My purpose in bringing this matter up is because you are creating an appeal division in the Canadian pension division, and according to the terms of that bill you are proceeding to make it part of that commission—the personnel of the Pension Appeal Court.

*By Mr. Thorson:*

Q. You are quite definitely saying that the members of the appeal court are so constituted that they cannot give proper decision?—A. I am not saying that. I am saying that the veterans of this country have not got that confidence which is required.

Q. And it is in the persons who constitute the appeal court?—A. Well, it is the record that they have built up over a period of years.

*By the Chairman:*

Q. And, mind you, the commission, too?—A. No. The procedure was what I was illustrating with regard to the objection raised by one commissioner.

Q. It is not a question of procedure; it is a question, I would think, of a decision of the court. I would like to ask the committee if that is not true; if the criticism is of the judgments of one of the members of the court?

Mr. THORSON: Yes, it struck me so.

Mr. QUELCH: You are not criticizing the commission—only the personnel?

WITNESS: I am criticizing the procedure whereby such a thing could happen.

The CHAIRMAN: You must give the judges the right to give judgment on the evidence before them.

*By Mr. Thorson:*

Q. You think, then, that no member of the quorum should be permitted to decide that evidence shall not be—A. I suggest to the committee that they seriously consider some other method of procedure whereby the judge in the case decides what witnesses will be present.

Q. Well, I can see that.

*By Mr. Green:*

Q. Did you not also make the point that the commission or appeal court do not give proper weight to the evidence of medical experts?—A. Exactly. That is the chief ground of complaint so far as the court is concerned.

Q. That is your chief complaint?—A. Yes, of the court.

The CHAIRMAN: There is nothing in the law which prevents them from doing so if they so desire.

WITNESS: Nothing. Section 73, I think, if it had been properly understood, might have met the situation.

*By Mr. Macdonald:*

Q. I would like to know who decides what witnesses will be heard before the quorum?—A. The advocate fills out a form in which he designates the witnesses he wishes called. That form is then considered by the pension medical examiner in the district where the advocate is operating and usually they more or less come



to an agreement as to which witnesses are necessary; but if there is any dispute then it is the quorum and the personnel of the quorum who decide whether or not a witness shall be heard. I see in the new bill that there is a provision that they will not only do that; they will decide whether or not the evidence is of sufficient importance to warrant the expenses of the witnesses being paid. That, of course, brings up the question where you are going to be confronted with a lot of complaints from the applicants.

*By Mr. Thorson:*

Q. Do you think that it should be permitted to a member of the quorum to do that?—A. I think it would be better if someone other than the personnel of the quorum were judging the case, because it always leads to a conviction in the mind of the man involved that the quorum have actually prevented him from providing material evidence.

*By Mr. Thorson:*

Q. Who should decide it then?—A. I consider that the advocate is responsible for the production of witnesses. He is making the case and it is up to him.

Mr. ROSS: That is a sound point.

WITNESS: Would you be able to in any civil court, I would like to ask; would a judge tell a lawyer for a defendant that he didn't think a witness should be heard.

Mr. THORSON: The judge would hear about that if he did.

The CHAIRMAN: The judge might very well say I do not want to hear any more evidence on that particular point.

Mr. BETTS: And does.

Mr. THORSON: He could not tell in advance what a witness is going to say.

The CHAIRMAN: He might say, Mr. Lawyer, what do you propose to prove by the evidence of this witness; and he would say that is amply proved and that is all there is to it.

Mr. MUTCH: A man would not complain about the calling of doctors if the court approved the evidence.

Mr. THORSON: A judge would hesitate about refusing to call defence witnesses if it was on a point of defence, and similarly if it were on a new point of complaint, of proof, unless the court was satisfied that the point had already been proved.

The CHAIRMAN: I think in most of these cases the point is already proved, and all the evidence that can be brought in has been brought out. It was a case of bringing in the whole battalion to show that Bill Jones had a headache on a certain day, or something of that kind.

Mr. HARTIGAN: The question of expense might very well enter into it in the case of expert witnesses living a long distance away. In such a case the quorum might be satisfied to admit documentary evidence on behalf of the man. They might not need to call the doctor as a witness.

The CHAIRMAN: I think they do.

WITNESS: The court has made a very particular point, Mr. Chairman, in dealing with these cases that where a written record from a physician does not contain definite dates of treatment and diagnosis and so forth it is necessary to have him appear in person in order that he might be examined by them as to his recollection, etc.

[Mr. Richard Hale.]

*By Mr. Hartigan:*

Q. Take the case you cited: in that particular instance would not an affidavit be sufficient, where a man was in another country; or would you want his expenses paid say from England or the United States to come here and appear in person before a board in Canada?—A. Well, the board decided that he would not be called. He did not appear in person and his evidence as taken by a commission was not considered sufficient.

Q. I just wondered if that was the actual situation?—A. I suggest this, sir, that in fairness to the applicant you should give them an opportunity of having their evidence taken.

Mr. BETTS: Mr. Chairman, it seems to me that in any criticism that is directed either against the system or against the personnel of these courts of appeal, for instance, we have got to know what the result has been from the statistical standpoint in all the files that have been before the tribunals.

The CHAIRMAN: Certainly.

Mr. BETTS: Now, it is a matter of record how many appeals have been taken to the court of appeal, and how many decisions favourable to the applicant have been reversed and how many favourable to the crown have been reversed, if I can put it that way.

The CHAIRMAN: Yes.

Mr. BETTS: I think that should be before us.

The CHAIRMAN: I think we have that. General Ross you will remember in the earlier portion of his evidence stated that he personally had reviewed cases, going back I don't know how long, and he came to the conclusion as to the work of the appeal courts that he was satisfied with their decisions. I think you will find that is what he said.

Mr. THORSON: I think there is general agreement on that.

The CHAIRMAN: Personally I was rather surprised to hear him say that, but he said that. Do you remember him saying that, Mr. Betts?

Mr. BETTS: Yes, I remember his saying that.

Mr. THORSON: There was a tendency on the part of the tribunals at first to make themselves popular.

Mr. MACDONALD: I would like to ask this witness whether he suggests that it is the usual thing for a quorum to refuse to hear witnesses on behalf of an applicant, or is it exceptional? We may have to consider that here.

Mr. BETTS: He said, exceptional.

WITNESS: It is exceptional.

*By Mr. Macdonald:*

Q. It is exceptional?—A. Yes.

I can conceive of a lot of difficulty with regard to the proposal that is in the bill now, in that it is going to make it difficult—

*By Mr. Mutch:*

Q. You think it will practically mean that a man will not get his witnesses paid for?—A. Any witness will be reluctant to leave his occupation to come in and give evidence if there is no guarantee that he is going to get his expenses paid.

Q. Judging by the percentage of these claims now coming up and being turned down a man would have to be a better than average gambler to take a chance on it?—A. We have a recommendation that in view of the large number of crown appeals which took place in the earlier days and the fact that there was undoubtedly a great deal of merit in many of them which were turned

down, that those applicants who obtained a favourable judgment from the Pension Tribunal and where such judgments were set aside by the Pension Appeal Court, they should be permitted to renew their applications before the Canadian Pension Commission. There were 1571 of these cases.

*By the Chairman:*

Q. Will you just read that again?—A. That those applicants who obtained favourable judgment from the Pension Tribunal and where such judgments were set aside by the Pension Appeal Court, be permitted to renew their applications.

The CHAIRMAN: As I recollect these were the cases in respect to which General Ross gave it as his opinion that the decisions of the Pension Appeal Court were in the main sound.

Mr. MUTCH: Is not that where he said he had constituted himself a board of review.

The CHAIRMAN: I think that is what he said.

Mr. MUTCH: It was in answer to a question of mine. I did not draw that inference from it. I may be wrong.

WITNESS: I think what he said was that he had formed the conclusion after reviewing a number of cases he was convinced that the judgments made were legally sound. I think if the General were to be questioned a little more closely you would find that that was what he had in mind.

*By Sir Eugène Fiset:*

Q. Your recommendation is that these decisions of the court of appeal should be re-submitted to the Board of Pension Commissioners?—A. Where the applicant succeeded before a court of first instance.

Q. And you would have us go all through the same thing again; have a hearing and then an appeal and then the submission of new evidence? Where would the thing end?—A. I consider this, there has been demonstrated a certain amount of merit. The crown has admitted entitlement in these cases, and 1571 is not a very large number.

Mr. THORSON: They would not take very long. I would be inclined to favour that.

The CHAIRMAN: We reopened all cases in 1930. We said no matter what the decision given by the courts may have been they are to be reconsidered. Now you are suggesting that we should start all over again. Of course, we could not do it for just one group of cases.

WITNESS: I submit, Mr. Chairman, that these applications have a great deal of merit in that they were accepted by the court of first instance.

*By Mr. Macdonald:*

Q. You are suggesting that these cases be sent back again to the commission and that if that is done the commission may now grant them?—A. I think it is reasonable to assume this, that there would be a fair number of these claims which would be admitted to-day.

*By Mr. Reid:*

Q. What was the number of these cases?—A. 1,571.

Mr. THORSON: I think perhaps that is not an unfair request.

*By Mr. Macdonald:*

Q. If they did succeed, supposing they were granted by the commission, if they are granted by the commission that would be the end of it?—A. Yes.

[Mr. Richard Hale.]



Q. And having granted that, having again established entitlement before the commission I suppose the crown would appeal to the same court that sat on it once before and decided they were not entitled to pension. You could not hope to have that court reverse its decisions?—A. I think the situation is different to-day. In the old days the appeal from the board was more or less automatic.

*By Mr. Reid:*

Q. In the event of that being carried out, you say that some 50 per cent might expect to be granted pensions, would those pensions be retroactive? For instance, if a man has had a favourable decision once and then been turned down on appeal and then gets a favourable decision on re-submission, would the question of a retroactive pension arise?—A. That would depend on the case.

MR. REID: If the commission were to give it to them now the men will be likely to say that they must have been entitled to the pension all the way along.

MR. MACDONALD: I do not think it would have any effect unless the crown agreed not to appeal the decision of the quorum.

WITNESS: As long as the present system is continued you cannot guarantee that. But I must say this much, that with the reviewing officer only such cases will be appealed by the crown as are likely to succeed. It is only those cases in which there is a fair ground for appeal that are being appealed to-day.

*By Mr. Thorson:*

Q. Might I just have a word of explanation from you? You spoke of the crown reviewing officer?—A. Yes.

Q. Is that done in advance of a decision to appeal?—A. Yes.

Q. And then after the crown reviewing officer has gone over a decision of the quorum he decides whether or not the crown will appeal?—A. That is correct, and it has been found to be a very satisfactory procedure.

Q. Whereas previously the person who represented the commission at the tribunal lodged the appeal?—A. Yes, and the Board of Pension Commissioners were the people who gave him his instructions.

The CHAIRMAN: Just to clear this up: I have just found the reference to General Ross. (Page 38 of the report.)

*By Mr. Brooks:*

Q. Is it a fair question to ask with respect to the appeals that have been taken that the Appeal Board had been justified in turning them all down?—A. I cannot answer that question just now.

The CHAIRMAN: It is not fair to ask one judge to criticize conditions in another court. I think that is a rather embarrassing question.

General Ross: Let me answer in this way: If you will refer back to 1933 you will find that on that occasion I made it my business to act as a sort of superior court of review on some three months of their judgments, and as the result of that I gave them a pretty good bill of health.

MR. MUTCH: We would not hold that against you.

MR. MUTCH: That is about as much as you can say for that.

*By the Chairman:*

Q. All right, Mr. Hale; go ahead.—A. Section 15 or Bill 26 deals with the matter of the Minister and working staff of the Canadian Pension Commission, etc. Mr. Chairman, we are a little uneasy about this. We have your

explanation as the Minister, and we think you are perfectly entitled, as you say, to handle the people who are under your control. We are worrying about who is going to advise you regarding some of these matters, and I will tell you one of the reasons why we are worrying.

In years gone by you know there was a very definite association between the departmental staff and the commission staff, the Board of Pension Commissioners, and it resulted in the appointment of two royal commissions. I have here a report of the Scott Commission, October 29, 1927, and I do not think I can do better to express our uneasiness than quote what this Commission said:—

At the time the Department of Soldiers' Civil Re-establishment absorbed the administrative activities of the Board of Pension Commissioners the officers of the department and the Board of Pension Commissioners did not confer together for the purpose of defining the policy and procedure to be followed in effecting the provisions of the Pension Act. This commission, and the lack of co-operation, between the Board of Pension Commissioners and the department has resulted in the unsatisfactory situation of which the Board of Pension Commissioners now complain.

It also would appear that the Department of Soldiers' Civil Re-establishment have undertaken to give advice and decisions in connection with pension matters without referring the same to the Board of Pension Commissioners. The board, without criticizing the accuracy of the information or decisions given by the department, consider that the department have dealt with matters entirely outside their jurisdiction, and feel that, without exception, all matters having any relationship to the entitlement to or the payment of pensions, should be referred to and decided only by themselves.

*By the Chairman:*

Q. That is quoting the opinion of the board?—A. Yes, sir.

Q. That is the opinion of Colonel Thompson?—A. In their recommendations they recommended that the Board of Pension Commissioners should be given such staff of medical examiners, investigators and clerks as will enable them to function as an independent body for the purpose of collecting all necessary information and evidence relating to matters relevant to the eligibility of ex-service men and their dependents for pension, rendering decisions thereon and calculating the pensions payable.

*By Sir Eugène Fiset:*

Q. What does the Act propose?

*By Mr. Thorson:*

Q. Would you mind reading it again?—A. The recommendation?

SIR EUGÈNE FISET: Read the section of the Act to which you object.

WITNESS: It is section 15.

*By the Chairman:*

Q. While we are waiting for that, who assesses pensions now, Mr. Hale?—

A. The Canadian Pension Commission assesses a pension on reports furnished in part by your department and on recommendation of their examiner.

Q. Who actually says the amount that is going to be paid?—A. In the final analysis, the Canadian Pension Commission.

THE CHAIRMAN: It is the finance department that does that. They issue the checks but I never see them.

MR. THORSON: But the assessments?

[Mr. Richard Hale.]

The CHAIRMAN: They say such a man is entitled to 25 per cent and then the finance department looks after it.

Mr. MUTCH: They do not decide whether he is 4 or 5 per cent disabled.

The CHAIRMAN: The Pension Commission does that.

Mr. THORSON: Which section does the witness wish to refer to?

The CHAIRMAN: I think it is section 15, is it not.

WITNESS: It is on page 3, subsection 15 of bill 26.

Mr. THORSON: Subsection 15 of section 3.

WITNESS: Yes, section 3.

The CHAIRMAN: It states that they shall come over and be officers on the staff of the department.

Mr. THORSON: It states:—

All officers, clerks and employees on the staff of the Canadian Pension Commission immediately prior to the coming into force of the amending act of 1936 shall be and become during pleasure, officers, clerks and employees as to the minister appear necessary for the efficient carrying out of the provisions of the Act.

Mr. REID: Do they come under the Civil Service Commission.

The CHAIRMAN: Yes, they remain under the Civil Service Commission.

Mr. THORSON: But they would be taken away from the Commission?

The CHAIRMAN: From the Pension Commission, yes.

Mr. THORSON: And be under the department.

Sir EUGÈNE Fiset: Any new classification that may be called for by the Pension Commission will be submitted to the department to be submitted to the Civil Service Commission for approval.

The CHAIRMAN: Yes.

Sir EUGÈNE Fiset: That is what it means.

Mr. THORSON: The staff will be supplied to the commission by the department.

The CHAIRMAN: Yes.

Mr. THORSON: Instead of being appointed by the Pension Commission.

WITNESS: The point that seems to be in some doubt is the matter of direction and control.

The CHAIRMAN: That would not come under that section, would it?

Sir EUGÈNE Fiset: Yes, that is the only section it can come under.

The CHAIRMAN: Subsection states:—

The Chairman of the Commission shall have control and direction over the disposition and duties to be performed by the vice-chairman and the other commissioners appointed under the Act and shall have control over the duties to be performed by such staff as may be assigned to the commission by the department for the carrying out of the provisions of this Act.

*By Mr. Thorson:*

Q. The principle behind the suggested proposal is that the Board of Pension Commissioners is a court and should confine itself to its judicial duties?—A. Yes.

Q. And not have administrative ones?

Sir EUGÈNE Fiset: Oh, no. The only thing the minister wants is to have control of the staff that is appointed through the Civil Service Commission and allotted to the Pension Commission. Once allotted, they have perfect control over them.



The CHAIRMAN: As I said before, I do not see any sense in having dual control in the same office.

Sir EUGÈNE FISET: It is a duplication of work.

The CHAIRMAN: Yes. In the same office in the same building and in the same room there are some who are under the Pension Commission and some who are under the department. For discipline and other things they have different rules.

Sir EUGÈNE FISET: More than that, you cannot transfer one of the staff of the department of Pensions and National Health without securing the authority of the Civil Service Commission even within the same department.

Mr. THORSON: I would like to hear what Mr. Hale has to say.

WITNESS: If you will allow me to explain, the reports upon which the commission depend are very largely made by the departmental medical staff. That is to say, if a pensioner is admitted to hospital under the department, it is the medical report made in that hospital which is the basis very often under which pension is determined, or the amount of pension. The judicial function of the commission is the thing that the veterans outside are very anxious about.

Mr. THORSON: That has to be maintained.

WITNESS: Yes. And of course, as provided here, it seems to be pretty well maintained. But I am simply voicing this general uneasiness: that this may mean a somewhat interlocking arrangement between the commission's medical staff and the department's medical staff, which resulted so disastrously in years gone by.

Mr. REID: Under the present system there is just as much trouble. For instance, the departmental doctors are apart from the doctors of the Pensions Commission.

WITNESS: Yesterday you listened to a recital of a great deal of the problems that have confronted the Army and Navy Veterans in regard to mental cases, and I can assure you that our problem is equally as heavy.

The CHAIRMAN: Would the problem that exists now be settled? Am I going to make it any different by the proposed amendment? It may make it better; it cannot make it worse, if I am to believe everything you have said about the present system?—A. The uneasiness exists, nevertheless, Mr. Chairman, that this may be a similar situation about which we had trouble in years gone by.

*By Mr. Thorson:*

Q. Mr. Hale, would it really be desirable to divorce the administration and the judicial functions of the commission?—A. Well, not to the extent that it may seem necessary. The commission has medical advisers who advise them, for instance, with regard to questions of entitlement to pension and with regard to questions of assessment of disability. It is very important, I think, that that staff be entirely judicial in character.

*By the Chairman:*

Q. That is to say, the Supreme Court of Canada should have a lot of judges running their messages?—A. I think they are in a little different category from that.

Sir EUGÈNE FISET: Some of them are allotted to the Pension Commission, others are allotted to the Department of National Health, and the same procedure is going to be followed. The chairman of the Board of Pension Commissioners has the rank of a deputy minister and will recommend to the Min-

[Mr. Richard Hale.]

ister that he needs so many clerks. The Minister will get these clerks from the Civil Service Commission, allot them to the Board of Pension Commissioners, and the only control that he has is simply over the routine of the department.

Mr. THORSON: He will not have any control over the chairman of the Board of Pension Commissioners.

Sir EUGÈNE Fiset: You are quite right.

WITNESS: I think General Ross expressed it very well. I am perhaps voicing some of his thoughts. It may turn out to be groundless, but we cannot forget what happened during those seven or eight blank years.

*By the Chairman:*

Q. What years?—A. When the two parts of the machine were in conflict a great deal of the time.

The CHAIRMAN: I will not agree with you. Will you not admit, as well as everyone else who has been following the soldier business that all that time the complaint was against Colonel Thompson, the head of the department. That was the complaint. And it was Colonel Thompson who won out in this battle. Now either you were not justified in criticising Colonel Thompson then, or you are not right now. The more I think of it, the more I think he was right a good many times.

Mr. MUTCH: In the department and when he left.

The CHAIRMAN: It was on Colonel Thompson's recommendation that Scott made that report. There was a continual fight on between the department and himself, and nobody ever denied that. There was a fight on always between Colonel Thompson and any Committee of the House, but he usually won.

Mr. THORSON: I am inclined to think that the soldiers would probably trade him for the Pension Appeal Court.

WITNESS: I do not think you will find anywhere that I personally said anything very much about the gentleman.

The CHAIRMAN: No, I do not think you did.

WITNESS: And I had a great deal to do with him.

The CHAIRMAN: I am not making any reflections on Colonel Thompson; I think he is a mighty good man, though he did not get along with the soldiers very well.

Sir EUGÈNE Fiset: I think the witness had better proceed.

WITNESS: The whole of this presentation on this particular point comes from an anxiety to protect the judicial functions of the commission. Now, the commission is very respectable these days. It has a great deal more confidence than it ever had before, and no one is more anxious to preserve that than the veterans, and the legion particularly. Therefore, that is the reason for our anxiety.

*By Mr. Thorson:*

Q. I wonder whether you could particularize. I am rather interested in that in view of the conflict in previous years?—A. Well, it arises in the main, I think, from the fact that in the early years—I am talking now about the tuberculous pensioner in particular—there were a great many disputes with regard to the assessment of his disability, and very often that resulted from a misunderstanding of his condition arrived at in a departmental hospital under departmental medical control. Sometime afterwards the department very wisely, and after a great deal of pressure, I may say, decided to make contracts with outside sanitariums and hospitals, and these men were placed there and the reports coming from absolutely unbiased and experienced people seem to have given a great deal of satisfaction and confidence. That is where this

uneasiness is apparent to-day, in that they fear a return to the old days when medical reports might be made under strictly department control, where the medical staff of the commission being under the control of the department, they might not fear so much.

Q. You are confining your criticism largely to medical officers?—A. Yes, that is the particular point.

Q. You are not worried about the clerks and employees?—A. No.

Q. But you are worried about the medical officers of the department?—A. Yes, that is the chief cause of worry.

Sir EUGÈNE Fiset: Can the minister state now if he intends to have one classification as far as medical officers are concerned for the department as a whole, or does he intend to follow the recommendation of the Board of Pension Commissioners to give them their special classifications as far as the Civil Service Commission is concerned?

The CHAIRMAN: They are all classified now. What I am mostly concerned with, as I told you before, is the matter of replacements. I do not want to have two men doing one man's job, and when there is a vacancy in pensions and I have a surplus in the department, I think I should send a departmental doctor over to do the job, instead of taking a new man in off the street. I do not see any sense in forcing us to have a water-tight department and have no control whatsoever over the number of people who are to be on the staff.

Mr. THORSON: There will be certain officers assigned as officers of the Board of Pension Commissioners. Certain qualified officers would be assigned the function of advising the Board of Pension Commissioners.

The CHAIRMAN: All they have to do under this legislation is ask for a staff and they will get it. No minister would be foolish enough to leave them short-handed and take the blame for adverse decisions they might give.

WITNESS: I would like to make some remarks about section 11 of Bill 26 with regard to time limits. We suggest, Mr. Chairman, that in the case of Canada and England service you might give them a little more leeway and we suggest one year after the proclamation of the Act; that some provision be made for injury claims recorded on the military documents. We do not feel there should be any bar to a man who was definitely injured on service and where there is record in the case.

*By the Chairman:*

Q. Injured on service in Canada?—A. Yes. There will be very few, but we do not feel that the door should be closed entirely on that type of case.

*By Sir Eugène Fiset:*

Q. What change do you propose in the Act?—A. One year after the proclamation of the Act. We have a very definite objection to any time limit on applicants with service in a theatre of war. In this connection I would like to mention that there is a certain amount of congestion at the present time. It is not very serious but there is a congestion with regard to the disposition of claims.

There were 175,871 casualties, that is to say, wounded men. There were 31,875 pensions awarded for gunshot wounds and injuries. That leaves you with 143,966 potential new claims. If you apply a time limit, and those men are alive to protect their rights, it is conceivable that you may have 143,966 claims to pension which you would have to deal with. And that is a very serious situation if you impose a time limit. They may feel compelled to claim.

That does not take into account, of course, a number of those who were hospitalized for diseases on service, who may also feel impelled to claim if you proposed a time limit.

[Mr. Richard Hale.]



*By the Chairman:*

Q. Do you distinguish there between casualties and those wounded in that figure of 175,841?—A. That includes all those who were returned wounded.

Q. Only wounded, or all casualties?—A. All wounded, only wounded.

Q. Only wounded?—A. Yes. It does not include diseases.

Q. It does not include any diseases?—A. No.

Sir EUGÈNE Fiset: That is about right.

WITNESS: In connection with Section 17 of Bill 26 regarding retroactive pensions we feel that in cases of chronic diseases the one year limit is a little too small, because this class of case very often has already undergone heavy medical treatment with the resultant expense and there is quite a financial responsibility. Most of those cases do not claim until they are absolutely broke and when they have expended all their savings and everything they have.

We would like the committee to consider whether it would not be advisable to make it three years instead of one.

*By the Chairman:*

Q. That would cover all cases if you make it three years, any case where a man has incurred certain expenses for private treatment? Is that what you mean?—A. We feel that the three year proposal will, the commission having discretion, enable them to deal with these cases.

Q. Would you be satisfied with an amendment to say that where it can be shown *boni fide* a man made certain expenses for treatment that he could be paid up to a certain amount, or up two or three years back, whatever you like? Would that satisfy you, because that is your argument in the main?—A. That would satisfy us in so far as that particular type of case is concerned. If the commission had discretion where it could be shown these treatment expenses had been incurred, to make the pension retroactive for a period of three years.

Q. That would be satisfactory to you anyway?—A. Yes.

Q. That would not take in all the other cases? There would only be a small number of cases where the men have actually paid out money?—A. There are those that are very difficult because the treatment for tuberculosis is a very expensive business.

Q. You are not against the principle?—A. We are not against the principle of restricting retroactive pensions, although I may say that we have grave doubts as to whether or not it will have the effect that you expressed, that more entitlements might be granted. I must say this, that in past years the amount of retroactive pensions was never considered much of a factor at all. In recent years it has become, of course, quite a factor, because of the lapse of time.

Of course, one of the great troubles in deciding some of these cases undoubtedly in the minds of those who adjudicate is the amount of money involved. It should not be so. They are human and I suppose that is the way it works out. I may say that I was told very frankly in the Pension Appeal Court on more than one occasion that I should not expect a favourable judgment on the evidence which was submitted because of the amount of money involved in the case. I naturally objected to that interpretation, but it did have some effect. And one can understand it.

Now, Mr. Chairman, the next is Section 21 of Bill 26, a decision by the commission and then the man goes to a quorum. I realize that you are endeavouring to dispose of some of these so-called frivolous cases. We feel, however, that our suggestion about medical examinations would do it much better. If this is carried out, you are going to have a repetition of what happened in 1930 and all these cases will be thrown onto the quorums. Further, the justice of the claim is, after all, the paramount consideration. By justice I mean that you

cannot take these cases as they come and say you are going to complete all your evidence and present it to the commission and get one decision and if that is not satisfactory go to the quorum. There are so many angles and complications in connection with the cases that are submitted that it is practically an impossibility to do that and do justice to the men and to the state at the same time. There are these very complex medical cases which arise where there are perhaps three or four conditions all complicating each other. We have found that in going frankly to the medical officers of the commission and discussing these difficulties, very often when you go or get with the commission itself or you submit a stated case to the commission they find there is some merit in the case but on the evidence submitted a favourable judgment is not possible. Under this proposal they have no alternative but to give an adverse decision.

Q. Oh, no.—A. Well, it provides for one decision.

Q. Yes, one decision, but they can withhold their decision if you think he should get other evidence. There is nothing that forces the commission to give a decision.—A. We are not in favour of the repetition that you referred to. Those cases are just as much trouble to us as they are to you or to the commission, that is, cases without merit and who persistently ask for consideration. But I submit most respectfully that you cannot settle the problems in that way. You have got thousands of men writing in who have received adverse judgments from the Pension Appeal Court. They do not stop writing, and there is nothing in the world that is going to stop them writing letters either to Members of Parliament or to others, or to the veteran bodies or the commission. Because a man receives an adverse judgment it does not stop him from complaining or writing letters. This repetition which is complained of in the commission after all is not a very big affair; there are not so many of those cases where it is purely a question of a man repeatedly asking for consideration. Somebody would have to reply to his letters.

The CHAIRMAN: Nobody is protesting against his repeatedly asking for consideration. What the act proposes is when a decision is given he cannot just say, "I have additional evidence and I will hold that up before it goes before the court that is going to decide it." He can write as much as he likes. The objection has been taken that this letter of his should not be taken as additional evidence—a letter from a doctor or something like that—and he cannot hold it there before the commission all his life; he has to go to the courts that are properly constituted to see him and hear his evidence. That is the object of this. If that is not what the suggested amendment means, then I am quite willing to consider anything else.

WITNESS: We are very concerned to-day for this reason that the expense of a quorum hearing is very high. If you compel a lot of applicants who have not got a claim to come to a quorum hearing and put the state to all the expense of calling witnesses, hearing the case, and then proceeding with the appeal later, you do not make much progress. It is only a matter, periodically, when he sends in some fresh evidence, of giving another decision. You still have to deal with his applications, but if you let him proceed you are costing the country a great deal of money and you will clog up the machinery which is there to deal with the real cases of merit. It also will act as a very definite hold-up to the work which the Canadian Legion has to carry on in this business of dealing with cases that have real merit, in going to the commission and discussing with them after a decision has been given. A great many of those claims are referred to the commission in the first instance not properly prepared and, probably, with a wrong diagnosis. We are very serious about this question.

Mr. BETTS: In case of that sort the commission is empowered to hold the case for further evidence.

[Mr. Richard Hale.]

The CHAIRMAN: Certainly. The commission can do all the talking over with the applicant or his friend that is required, and the commission can say to you, Mr. Hale, "have you sufficient evidence on this point? If you have not, we will not give a decision." There is nothing that forces the commission to give a decision at all.

WITNESS: It had that effect when we tried it in 1930.

The CHAIRMAN: No. It was not the same thing in 1930. You know very well that it is not the same thing at all as in 1930. Let us not confuse the issue anyway. You know that in 1930 the provision was for automatic reference to the tribunal. This is not an automatic reference; this is simply that he shall not be going time and time again with the same old case to the same body. We have created by statute and by the law of parliament and by the people of Canada certain bodies to act as judicial bodies to hear these claims, and we think that they should be made use of.

WITNESS: Yes. They are being made use of, and they are very much congested, and if this procedure is carried out—it may certainly be that they do not have to give a decision at all—but once that decision is given there is no way of discussing the case in that particular way. I want to submit this—you may not agree with this, but I am talking with long experience of this work—I may say this much that what is wrong to-day with the veteran is that he goes to the quorums; he has very often a poor idea of what is going to happen; the advocate does his best and prepares a poor case, and I submit this much that when he puts down his evidence and he argues his case it is very often disclosed that there are many points which might have been covered, which might have been discussed—medical questions. It is not always possible to settle these things in that particular way. One of the things that the appeal court did do that I always felt was good, in spite of some of the other things they did was the readiness with which they referred these cases back when they came there and the applicant had not received all the consideration due his case, and there was additional evidence which might have been obtained.

I am particularly concerned about the chronic disease cases, and it is my purpose to stress them. Perhaps I am doing it badly, but I think I am doing it.

The CHAIRMAN: Oh, no.

WITNESS: I know this much that we have seen a great many of these cases where, had there been these consultations in the first place before the door was closed, much good would have resulted. There is, undoubtedly, a great deal of merit, angles to be developed, and discussion—discussion with physicians on a perfectly neutral basis in order that entire justice be given to the applicant and further consideration be given to various points. There is the diagnosis, the type of disease, the value of certain evidence and so forth. All that is not possible under this proposal, because if a man sends in his own case and the commission gives a decision that field of negotiation is wiped out; it has to go to the quorum.

*By Mr. Thorson:*

Q. Would it be possible to constitute the commission as an enquiring body as well as a deciding body? Does the commission do that to any extent?—A. They do that now to a fair extent.

Q. Do they do it to a greater extent than formerly?—A. Yes. They have these questionnaires, and if a man is examined the medical examiner will often discuss the condition with the man and will advise him just exactly how to proceed and so on. It is much better than it used to be.

Q. When the pension advocate goes before the quorum is that attitude of mind continued? Is there discussion between members of the quorum and the



pension advocate as to points of importance and points that are not satisfactorily covered by available evidence?—A. I think, Mr. Thorson, the quorums operated very well considering their handicaps, the amount of time they had and the travelling they had to do.

*By the Chairman:*

Q. They hear about six cases a day. Is not that their average?—A. That is correct. It takes a man of a judicial character; then, too, you have informal discussion in the commission. There is not the same latitude for discussion. I venture to say, gentlemen, you are all reasonable men, and if we sat down at this table to-day and discussed the case of Bill Smith, if you like, after about a half hour of discussion on his history and the various points—

Sir EUGÈNE Fiset: We would give him a pension right off.

WITNESS: No. —we might decide that he had no claim; but we would have all to be in it and we would know that we were doing the right thing by Bill Smith. There is a lot of difference in placing certain evidence and certain facts before two or three men and asking the applicant a number of questions and always with the idea in mind that they have five other cases to hear and they have to travel the next night and so forth.

The CHAIRMAN: I think what Mr. Hale wants to say is that they would like to abolish the quorums and have that commission back again.

Mr. THORSON: I am really getting back to that idea, whether in the long run it would not be better.

WITNESS: I would say this quite frankly, I am not trying to beg the question at all. I am very anxious that out of this committee we should get something that will direct, that will organize and get behind; that will say, this is right and there are not going to be any more changes required. I would say this much, that so far as the Federal Appeal Board was concerned there were no real complaints made against it, other than delay and its lack of jurisdiction. If the Federal Appeal Board had been enlarged and given facilities which you have given to the quorums of the commission, or which you gave to the tribunals—I might perhaps say this much, and this is my experience, that whilst they would accept a judgment from their own judges when they faced them and when that judgment was explained to them in person, they would do that much more readily than they would accept judgments as they are handed down to-day.

The CHAIRMAN: That is an interesting suggestion you just made. That has always been my opinion, and the only change you have to make would be to say that the quorum would have to give its decision right there. Personally, I have always favoured that. Let the quorum give their decision. That is much better, I think, than having judgments delayed as they are at present.

Mr. THORSON: If you did that would you not really be making the Pension Commission a travelling commission?

The CHAIRMAN: That is what it is now.

Mr. THORSON: I know it is. You could have the commission as an enquiring body as well as a judicial body, acting if necessary through its travelling quorums.

The CHAIRMAN: That is what it is now.

WITNESS: Well, that of course is one of the chief grounds for dissatisfaction on the part of the veterans now; that a decision is given, when it is unfavourable, by some body that he never sees.

The CHAIRMAN: The idea in creating a quorum or a tribunal was so it would see the man.

[Mr. Richard Hale.]

Mr. THORSON: Do you think there is really as much in it as we have from time to time heard.

The CHAIRMAN: We thought there was a lot in it. That is why the tribunals were created, so that they could see the men and talk to them.

WITNESS: Yes. I think the main difficulty in these cases is that the men are not satisfied that they have been proven. They are more satisfied in cases where the applicant appears in person and sees his judges. He is satisfied by the manner in which the trial is conducted, and that all the evidence is brought out, and he is present when they deliver judgment. I fancy that 90 per cent of these men would be despondent naturally if they did not succeed, but they would be more satisfied. You can't satisfy a man in the hospital for instance by the procedure that has been in effect for the last six years. I am going to tell this committee that I have seen some of the saddest things I have ever seen in my life—I have been present at the death of hundreds of these men—take the case of the man General Currie is interested in. That man died cursing his country and cursing the day he put on a uniform because he had succeeded twice in convincing the court of his right to a pension only to have those decisions reversed.

The CHAIRMAN: That is a criticism of what? Of the Appeal Court, or what?

WITNESS: It is the system, Mr. Chairman.

The CHAIRMAN: What we want to know is what change you want to make in that system?

Mr. THORSON: That is what we would like to know.

The CHAIRMAN: Yes. I have been seriously considering whether I should not ask the committee to take this point into consideration. I have always been under the impression, I know it was my impression in 1930, that the tribunals ought to hear a man and explain to him why he could not win, if he could not. I thought that was the way they were intended to work, but I find that it is the practice of the quorums to return here to Ottawa and write their decisions a month or so afterwards. I have discussed that with certain people and they say that in a great many cases a man feels a great deal better if he gets his judgment right away from the bench. Personally I think that is much the better way. I find that one objection they have to immediate decisions is that if they are given too quickly the ex-soldier will say they have not been given sufficient consideration. Haven't you heard that discussed, Mr. Bowler?

Mr. BOWLER: I have heard that discussed.

The CHAIRMAN: Personally, I think that if it were my case I would rather have them tell me right there just what their decision is going to be. A great many of the members of the quorums, I am told, say that it would not do at all to give a decision then. What do you think about that?

WITNESS: I do not mean necessarily at the same time. What I thought was that they would consider the case with the applicant there and give their decision perhaps the next day.

The CHAIRMAN: I do not think there is any objection to some kind of an amendment if that would be in order.

Mr. BETTS: Surely you are not going to make for the better administration of justice if you say to any court "you must give judgment forthwith"?

The CHAIRMAN: No. Not forthwith; but at least that the man be notified when judgment is going to be given. They will call the man in and tell him that they are going to give reasons for the judgment. As it is he may return to Ottawa and send back a written judgment which is communicated to the man by mail or in some other way.

WITNESS: There are just one or two other points. Section 68 of bill 66. We do not like the idea of physicians having to furnish an affidavit. We feel that the certificate of a reputable physician should be accepted as other certificates are always accepted.

Section 72 of bill 26. This has reference to the question of the files. We think that situation would be better if you could get some general agreement with the veteran bodies who will submit a list of their regular officers for acceptance by the department, and that others who may be selected by the applicant shall be satisfactory in other ways.

The CHAIRMAN: I think that had better be made by regulation.

WITNESS: Yes. We have confidence in the veteran bodies.

The CHAIRMAN: I do not know that we can recognize them by name. It might be very difficult to do that. I think we could certainly make some kind of regulation that will meet that view. I think every member of the committee understands that possibly we have gone too far in the proposed amendment, and that something must be done.

WITNESS: We are quite in agreement with that so far as the applicant is concerned.

Section 33, subsection 3, which deals with parents. This is a new proposal. We would like to see some change to provide for these parents where there is no definite assignment of parent service and evidence has to be produced to show that the soldier would have contributed if he had not been killed. The British system is one which depends upon the dependency of the parent, and in making this suggestion we feel that there are not many of these parents living; their ages are pretty high now and many of them are covered by the old age pension at seventy years. This deals with only those who are not seventy years of age, and there will not be many of them.

With regard to the War Veterans' Allowance Act, bill 27. The Tuberculous Veterans' section favours extension with regard to permanent unemployability rather than the question of age. I do not think I need labour that. I want to say this much, that I think the War Veterans' Allowance Act has been a very great benefit to the class of people I represent. Our relations with the committee have been exceptionally fine, and as far as the committee are concerned we think they have done a splendid job. We would like to include their medical staff with whom we have done a great deal of business. That comes to my old theme song, Mr. Chairman, that negotiation and discussion is more powerful than argument.

Now, I come to P.C. 91. I have put this almost at the last because I know our situation with regard to that. We have accepted your assurance there, sir, that active remedial treatment is to be administered with a kindly hand.

The CHAIRMAN: Do not make me give you too many assurances. I imagine I have given you that one.

WITNESS: You did.

The CHAIRMAN: That is all right.

WITNESS: Because the only thing that worries us about that is the terminal case. We hope it will not happen that a case of tuberculosis will be in that category where it is not considered active remedial treatment to help them. We would like to be assured that he will have a place to die.

There is just one other point in connection with P.C. 91: reduction of the amount of pay to those incurable and terminal people under treatment. There is that reduction of \$10 a month, and we would like to ask you to reconsider that matter of \$10 a month. It was \$20. I am speaking particularly of single men without dependents. In many cases, as you well know, that \$10 simply remains with the state.

[Mr. Richard Hale.]



The CHAIRMAN: There are very few of those. It was really a question of giving money to the dependents. The man himself was in hospital and did not need it.

WITNESS: We have just one suggestion to make about returned soldier insurance. We would like to ask the committee seriously to consider recommending the re-opening of returned soldier insurance for a period of three years. Our reason is this, it is not costing the country any money; in fact I am told from a very reliable source there is actually an actuarial computation of profit amounting on the whole scheme to over one million dollars.

The CHAIRMAN: Be careful about what you say there. I once made a statement like that and I was contradicted by Mr. Finlayson. I said he was wrong. He said he was right and proved it, and I had to apologize.

WITNESS: I was going to suggest that Mr. White who handles this insurance be called before the committee so that you would be able to have accurate figures. There is this point about it: During these bad times a lot of these men have surrendered their insurance and now have no protection. Why should you not continue this benefit to any soldier who can pay for his insurance? It is not going to cost the country any money. Why deny them the opportunity of getting insurance. The scheme is sound, if these figures are correct. I suggest that you examine the man responsible and get him to give you a picture of it.

*By Sir Eugène Fiset:*

Q. Has the Act been repealed?—A. It was closed in August, 1933.

Sir EUGÈNE FISET: It is actually repealed?

The CHAIRMAN: No, the insurance is still in force but applications are no longer entertained.

WITNESS: There is just one other matter, Mr. Chairman, and it is this: We would like to ask that your committee should make a declaration in general terms as to their intentions, particularly with regard to pension policy. We know that legislation is the only real thing through which to get results, but this would be of great help to adjudicating bodies, and as well it would leave no doubt in the minds of veterans, their dependents and the people of Canada. We would like to see something in the way of a general declaration as to the intention of the committee. With your permission, Mr. Chairman, I will file this with the clerk.

(Recommendations of Tuberculosis Veterans' Sections filed as appendix "C".)

The CHAIRMAN: All right.

Witness retired.

The CHAIRMAN: We will meet to-morrow at eleven o'clock.

The committee adjourned at 6.25 o'clock, p.m., to meet again to-morrow, Friday, April 24th, 1936, at 11 o'clock, a.m.

# APPENDIX A MERITORIOUS PENSIONS SECTION 21

<i>Number Granted—</i>						9 mths.
<i>By C.P.C.:</i>	1930-31	1931-32	1932-33	1933-34	1934-35	1935-36
Additional allowances . . . .	—	—	—	—	2	9
Disability . . . . .	—	—	—	—	2	2
Dependent . . . . .	—	—	3	—	*37	31

\*NOTE.—24 of the 37 cases in 1934-35 are pensions granted to widows, cancelled under Section 12 and subsequently awarded under Section 21.

<i>By Appeal Court:</i>						
Additional allowances . . . .	—	—	—	—	—	—
Disability . . . . .	—	—	—	—	—	1
Dependent . . . . .	—	—	—	—	—	—

<i>Number Refused—</i>						
<i>By C.P.C.:</i>						
Additional allowances . . . .	—	—	7	4	5	—
Disability . . . . .	—	—	17	5	13	9
Dependent . . . . .	—	1	104	55	56	76

<i>By Appeal Court:</i>						
Additional allowances . . . . }	—	—	4	7	20	12
Disability . . . . . }	—	—	—	—	—	—
Dependent . . . . . }	—	—	—	—	—	—

Number granted from date of original clause in the Act to December 31, 1935.. 114  
Number refused from date of original clause in the Act to December 31, 1935.... 680

These figures are of individual cases; a number have been considered more than once.

## APPENDIX B

MEMORANDUM submitted by Mr. J. R. Bowler, General Secretary of the Canadian Legion of the British Empire Service League, to the Special Committee of Parliament on Pensions and Returned Soldier Problems respecting the operations of the Canadian Legion Dominion Headquarters Service Bureau.

It will be observed that the statement now submitted covers a period of from July 1, 1930, to February 29, 1936. This period has been selected as representing a fair length of time over which to demonstrate the work of the Canadian Legion Headquarters Service Bureau. It is pointed out, however, that the Bureau has a record of continuous existence over a period of sixteen years and was taken over by the Canadian Legion upon the coming into being of that body in 1926. At that time also the Dominion Adjustment Service of the Tuberculous Veterans' Association, (which then became amalgamated with the Canadian Legion) was incorporated into the Legion Dominion Headquarters Service Bureau and has functioned successfully ever since as an integral part thereof.

The services of the Bureau are available without charge to all ex-service men and women whether members of the Legion or not; the aim of the Bureau is to develop each case to the fullest degree, and to secure adequate consideration according to the merits in order that each applicant may receive a full measure of justice.

Excepting only in very special instances the Bureau does not undertake the presentation of cases to the Pensions Tribunal or to the Pensions Appeal Court. In almost every instance its work is carried on by direct negotiation with the Board of Pension Commissioners and its staff, who have extended to the

Bureau every facility for this purpose. However, in practically all cases which, after having been dealt with by the Bureau, are subsequently referred to the Tribunal, extensive and valuable preparatory work has first been carried out by the Bureau.

The Bureau is called upon to deal with pension claims or pension complaints of every nature. Therefore, as the following figures will show, its work is not limited to any particular class or classes of applications under the Pension Act.

In the following figures only one adjustment is credited to each case, although in fact, many applications involve the establishment of more than one condition and involve entitlement for more than one dependent.

The term "pension adjustment," as used in this statement, means a case in which material recognition has been secured in respect to the claim of an applicant. It may be pointed out that many cases are satisfactorily settled which do not involve a pension adjustment. Such cases are not shown in the figures submitted.

Pension adjustments have been secured by the Canadian Legion Headquarters Service Bureau over the period above referred to, as follows:—

Entitlement to pension on the grounds of relationship of disability or death to service, including cases of aggravation.....	2,019
Establishment of pension on the grounds of dependency, including parents, widows, widowed mothers, children, etc.....	672

(Note: In several of these cases it was first necessary to establish relationship of death to service.)

Establishment of right to retroactive awards of pension.....	896
Establishment of right to increased assessment.....	659
Establishment of right to reinstatement of pension, for which final payment has been accepted, on the grounds of increase of disability.....	324
Miscellaneous, including helplessness, clothing allowance, etc.....	114

Total pension claims established during the period referred to.....	4,684
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NOTE: Many claims have been submitted and established under certain provisions of the legislation of 1930, particularly Section 25 (9), providing for the reinstatement of pension to a pensioner who had accepted final payment and whose disability had persisted but had not increased; and also under Section 32A, which provided entitlement to pension for widows not previously eligible. As, however, the establishment of these cases was automatic they are not included as pension adjustments in the figures submitted above, notwithstanding that in many instances work has been carried out in connection with them over a long period.

The number of cases of all classes dealt with by the Bureau during the period referred to is 21,223. Of these 14,763 have to do with pensions. The remaining cases concern such matters as treatment, hospitalization, pay and allowances, returned soldiers' insurance, Civil Service, employment, soldier settlement, records, medals, etc., etc.

Of the 14,763 pension cases dealt with, 4,684 have resulted in adjustments, whilst approximately 6,000 remain on the active list at the present time.

During the period referred to, the Service Bureau has carried out a total of 20,568 personal interviews with claimants, of which the majority must be apportioned to matters of pension.



During the same period, Dominion Headquarters of the Legion has received and dispatched 565,702 letters, the substantial majority of which have related to cases of pension.

The figures contained in this statement are confined exclusively to the Service Bureau operated by Dominion Headquarters of the Canadian Legion in Ottawa, and do not include the records of the Service Bureaux operated by practically all Provincial Commands of the Legion or of Legion Service Bureaux at other points in Canada such as London, and Windsor, Ontario.

The books and records upon which the figures and statements contained herein are based, are available for inspection by the Committee at any time.

Inasmuch as financial assistance has been given to Dominion Headquarters Service Bureau by the Government of Canada each year commencing April 1, 1928, the particulars of such assistance may be relevant at this point. The following extract from the Third and Fourth Reports of The Special Parliamentary Committee on Pensions and Returned Soldiers' Problems, (April 30, 1928, Page 14, Part VI (1)), is therefore quoted:—

## PART VI

### MISCELLANEOUS

#### 1. Canadian Legion of the British Empire Service League.

Your Committee was greatly impressed by the efficiency of the Service Bureau, an organization instituted by the Canadian Legion of the British Empire Service League at Ottawa, for the purpose of preparing for submission to the Board of Pension Commissioners, the Federal Appeal Board and the Department of Soldiers' Civil Re-establishment the claims arising out of legislation on behalf of ex-soldiers. This Bureau has, since its inception, handled thousands of cases and has been of inestimable value not only to members of the Legion, but to all ex-soldiers and their dependents. We feel that it should be given some direct governmental assistance.

The Committee recommends that the estimates to be submitted to Parliament should provide for a yearly grant to the Dominion Executive Council of the Canadian Legion, British Empire Service League. The expenditure of this grant to be subject to such supervision and audit as the Governor-in-Council may deem necessary, the amount not to exceed \$10,000 per annum and to be contributed on the basis of one dollar for every dollar expended by the Legion directly for the purposes of the Bureau.

It will be observed that this grant is conditional upon the expenditure for the maintenance of the Service Bureau of a corresponding amount of money by the Canadian Legion with a maximum Government grant of \$10,000 per year, but which, as occurred with other Government expenditures, was reduced by 10 per cent to \$9,000 in April, 1933, and so remains.

During the period that the grant has been in effect, the annual expenditures of the Canadian Legion for the up-keep of the Service Bureau have been considerably in excess of the sum of \$20,000 so that in each year the maximum amount of the grant has been requisitioned and has been paid. The practice has been that, at the end of each quarter year, the Legion has submitted to the Department of Pensions and National Health an audited statement showing the amount of money spent on the Bureau during that period upon receipt of which the Department authorizes payment to the Legion from time to time.

The following figures show the total cost of operation of Dominion Headquarters Service Bureau from April 1, 1928 to December 31, 1935:—

Total cost of operation—April 1, 1928 to December 31, 1935.. . . .	\$ 191,623 21	
Government grant received.. . . .		\$ 74,750 00
Cost of Canadian Legion.. . . .		116,873 21
	<hr/>	<hr/>
	\$ 191,623 21	\$ 191,623 21

All of which is respectfully submitted.

J. R. BOWLER,  
*General Secretary, Canadian Legion of the B. E. S. L.*

## APPENDIX C

### CANADIAN LEGION OF THE B.E.S.L.

#### TUBERCULOUS VETERANS' SECTION

##### *Recommendations*

1. That The Pension Act be so amended as to provide that all applicants granted entitlement to pension by the Pension Tribunal, whose Judgment was set aside by the Pension Appeal Court, be given the opportunity of renewing their claim before the Canadian Pension Commission.
2. That greater consideration be given to the expressed opinions of Medical Superintendents of Sanatoria, and Tuberculous Specialists in respect to service relationship of Tuberculosis, and other chronic chest diseases, in claims to pension.
3. That Section 32, subsection (2) of The Pension Act be so amended as to include within its provisions those pensioners in receipt of Classes 1 to 11 pensions.
4. That the judicial independence of the Canadian Pension Commission be preserved in every respect, and that the control over its medical and other staff be not impaired.
5. That Section 33 of The Pension Act be so amended as to provide for "Need Pensions" for parents of members of the forces, whose death resulted from service injury or disease, when such parents are in a dependent condition, similar in character to those provided by Great Britain.
6. That no Limitation as to time be made effective with reference to applicants who served in an actual theatre of war, and a period of at least one more year for those applicants who did not so serve with special provision for those definitely recorded as injured during any type of service during the war.
7. *Retroactive Pension.*—That the one year limit in Bill 26 be extended to at least three years.
8. That all applicants for disability pension be thoroughly and completely medically examined; and that no limitation be imposed on the C.P.C. as to the amount of consideration to be given any claim.
9. *Returned Soldiers' Insurance.*—That the Returned Soldiers' Insurance Act be reopened for a period of three years.

10. *Medical Treatment.*—That the right of any disability pensioner to receive medical treatment from the Department of Pensions and National Health be reaffirmed and completely restored.

11. *War Veterans' Allowance.*—That the Act be so amended as to provide for greater consideration to be given to those applicants under 60 years of age, who are, by reason of Tuberculosis or other Chronic Disease, industrially unemployable.

12. *General.*—That this House of Commons Committee declare, in definite language, its general intentions with respect to the claims of pension applicants, so as to guide pension adjudicating bodies in the performance of their duties.



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SESSION 1936

HOUSE OF COMMONS

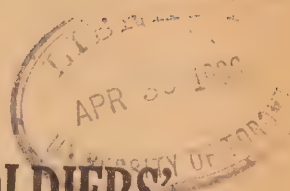
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SPECIAL COMMITTEE

ON THE

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

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MINUTES OF PROCEEDINGS AND EVIDENCE

---

No. 8

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FRIDAY, APRIL 24, 1936

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WITNESSES:

Captain Frank J. C. McDonough, of Toronto, representing the Canadian Pensioners' Association of the Great War, Inc.

Captain E. Browne-Wilkinson, Chairman Dominion Legislative Committee, Army and Navy Veterans in Canada.

OTTAWA  
J. O. PATENAÛDE, I.S.O.  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1936



## MINUTES OF PROCEEDINGS

FRIDAY, April 24, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 o'clock a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present: Messrs. Betts, Brooks, Cameron (Hastings South), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Isnor, Macdonald (Brantford City), MacNeil, Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (Middlesex East), Streight and Thorson—19.

Captain Frank C. J. McDonough of Toronto, representing the Canadian Pensioners' Association of the Great War, Inc., was called. He filed a brief which was ordered to be incorporated in the evidence, and offered to appear at a later date if the Committee desired him to do so. Witness retired.

Captain E. Browne-Wilksinson, Chairman of the Legislative Committee of the Army and Navy Veterans in Canada, was called and examined.

The Chairman read a statement giving the number of appeals granted and rejected by the Pensions Appeal Court.

The Chairman said he would file a copy of the order cancelling the calling in of pensioners for re-boarding.

The Chairman provided copies of P.C. 91, respecting pensions, for distribution to the members of the Committee.

The witness retired, and the Committee adjourned at 1 o'clock p.m. to meet again on Monday, April 27, at 11 o'clock a.m.

J. P. DOYLE,

*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497, APRIL 24th, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman, presiding.

The CHAIRMAN: Order, gentlemen please.

The Canadian Pensioners' Association, represented by Mr. Frank McDonagh, of Toronto, have a brief to present to us. With the permission of Mr. Browne-Wilkinson he might present that now.

Mr. FRANK C. J. McDONAGH, of Toronto, representing The Canadian Pensioners' Association of the Great War Inc., called:

WITNESS: Mr. Chairman and gentlemen, I have no intention in taking up the time of the committee in the repetition of something which has been gone over before. I have copies of this printed brief which I would like to have incorporated in the proceedings. I hand to the chairman a sufficient number of copies for members of the committee. I appreciate the courtesy of being permitted to present it now. I do not presume you will want to examine me on it. I do not think I could add anything to it.

*By the Chairman:*

Q. Are you going away, Mr. McDonagh?—A. I am going back tonight. Yes, sir. I thought I was being called yesterday and that is why I was here yesterday.

Q. I have no objection to it being filed at all. I thought perhaps you might want to enlarge upon it. Does it cover the grounds the other associations have dealt with?—A. It is a little different in some of its statements, and if after the committee has read it you wish me to come back here I shall be very glad to do so after you get through with the other witnesses.

The CHAIRMAN: That is all right then.

SUBMISSIONS AND OBSERVATIONS RE BILLS 26, 27 AND 28, SUBMITTED BY THE CANADIAN PENSIONERS' ASSOCIATION OF THE GREAT WAR, INC.

Mr. CHAIRMAN AND GENTLEMEN:

May I say, on behalf of the Canadian Pensioners' Association of the Great War, that I have been greatly impressed by the manner in which your committee is approaching the serious problems which have been referred to you. My Association, of course, deals in the main with pension matters, and we are primarily interested in pension legislation, and in a general way, are interested in all matters dealing with ex-service men, particularly in relation to those who had service on an active front in the so-called "great war".

We have pleasure in associating ourselves with most of what has already been said to you, but we felt that on certain phases of the proposed legislation, we should present our own thoughts. It will be my endeavour to be as brief as possible, and, if possible, avoid repetition of what has already been said to you.

There is one matter in which our stand is quite definite, and that is that we are opposed to the granting, in relation to war service, of service pensions in connection with any disabilities which may have been contracted on an active front in the last war.

#### BILL 28

May we compliment you, sir, on bringing down bill No. 28, which is an act to assist towards the employment of former members of the forces, and while the term of the commissioners set out is rather short, in view of the magnitude of the task which will confront them, we feel that, if necessary in your opinion, the next session of the House will enlarge the term. We have one suggestion to offer, in connection with this Bill, and that deals with Section 2 (d) and we would suggest that there be added to 2 (d) something to include those who were domiciled in Canada on August 1, 1914, and who served in the forces of His Majesty or of His Majesty's allies during the war, and who have returned to Canada since such service. Such addition, we believe, will take in those men who were Canadian and who served in such forces as the Royal Naval Air Service; the Royal Flying Corps, and certain others who were induced to enlist from Canada directly into Imperial units.

We wish to make comment in regard to 6 (b), which includes the phrase "to supplement the assistance now granted". Our observation in this regard is to the effect that we would not wish this phrase interpreted as referring to pensions for disabilities, as such interpretation is contrary to the principle of the Pension Act, and contrary to our understanding of pensions.

#### BILL 27

In regard to Bill 27, which is an act to amend the War Veterans' Allowance Act—while we appreciate that as a result of economic conditions, times are hard, we do feel that the original principle that brought about the passing the War Veterans' Allowance Act should not be departed from, as any enlargement upon the original principle could only be properly interpreted as a service pension, which, if I may reiterate, we are definitely opposed to. Our only comment on this Bill is that the words "specially meritorious" in Section 3 of the proposed Bill appear to us as difficult of interpretation, and we feel that the inclusion of those words may cause considerable criticism to the one body dealing with ex-service men which has been comparatively free from destructive criticism. The only suggestion which we could offer is an addition "having regard to the length, nature, and type of service in an actual theatre of war".

#### BILL 26

In regard to Bill 26, which is an Act to amend the Pension Act, we wish to make the following observations:

In regard to section 1 (3) h, we presume, of course, that the interpretation of this subsection will have a retroactive effect to take care of those cases which have been barred because of the strict interpretation of the previous subsection.

3 (2). It is with difficulty that we express our thoughts in regard to this particular section. Realizing, as we do, the respect due all courts, it is not without hesitation that we state our thoughts. It is also difficult, because we realize that unless there is some security of tenure of office, the men possessing the necessary judicial capacity to act as com-



missioners under the Pension Act will shy clear of accepting office. We suggest, in connection with this section, that your committee appoint a sub-committee to examine into the decisions of the appeal court as at present constituted. We have made a little examination of the figures in regard to this court, and rightly or wrongly, we have reached the conclusion that the court has not interpreted section 73 as the people of Canada expected it to be interpreted. We appreciate that the members of the court have had experience at the bar, but we raise the question as to whether or not they have simply rendered their decisions in the cold letter of the law. In other words, have they taken the position that they stand between the man and the state, rather than standing for the man and the state. In view of the serious question which we now raise, we express the opinion that the inclusion of the members of the court as at present constituted into the commission, as proposed, will hinder the effectiveness that is to be hoped for the new body.

3 (15). We suggest that in the seventh line after the word "Minister," the words "By and on the advice of the Chairman," we are not seriously pressing this amendment, but bring it before you in order that our position may be made clear and our position is that we have a definite objection to having some of the long-time members of the Minister's staff obtaining control of the pension machine. While we appreciate that under the present Minister such a thing is impossible, we feel we should make the observation for what it is worth.

9 (1). Dealing with this amendment, and also section 26 re sec. 67 (1) we submit that the appeal division should consist of an odd number, that is to say, three or more.

12 (a). In regard to this subsection we suggest a time limit of January 1, 1937, and may we point out here that the effect of establishing a time limit at the present time may have the result of clogging the machine because of the rush of applications which may arise.

In so far as 12 (b) is concerned, we are definitely opposed to a time limit for applications for entitlement to pension in regard to any man who had service on an active front. We believe the reasons for our objection are well known to the committee, and we do not wish to labour this point, except to remind you of the difficulty that existed in the forward area of having proper documents prepared when a man was sick or wounded.

Dealing with sections 16, 17, 19, and 20, we wish to register ourselves as being in opposition to these changes. We feel that those rights which have been previously granted should not now be taken away from those men who had active service in an actual theatre of war. We believe that if a man were entitled to a pension as a result of disabilities incurred on an active front, his rights arose at the time of the occurrence of the disabilities, and we feel that it would not be just, possibly because of the man's inability to procure proper evidence, or because of the length of time it would take the bodies set up by the government to hear the claim, to take from the applicant the pension which may have been his right, although not granted until a late date. In this connection, we wish to make one observation, and that is that it has been said that some decisions of the present commission and the present court have been held up because of the large amount which would be payable to retro-active pension on a favourable decision. We beg to submit to this committee that if there are any members on the present commission or court whose decision has been delayed, because of the amount of money in-

volved, those particular members of the commission or court have not, in our opinion, the judicial capacity required and we would suggest their immediate dismissal.

23. In this connection, may be point out that it is our understanding that the applicant is limited to a fee for specialists of \$10.00 whereas the commission is not limited in regard to the amount payable to such specialists as they may deem necessary.

24. 58(2). It is suggested in connection with this suggestion that the applicants advocate be permitted to submit a written argument to the third member selected by the chairman of the commission.

72. We feel that nothing should be done which will take away the right of the applicant's advocate or solicitor to examine into the records, and we feel that we should point out here that it is our belief that the department in the past has refused to forward files to specialists where the question of assessment was being considered. We also feel that all solicitors, or advocates, acting on behalf of applicants for pension should be registered with the department. We wish to suggest to this Committee that as long as there are income tax free bonds that pensions paid because of disabilities incurred in the service of Canada should enjoy the same exemption. Tax Free Bonds were, in our opinion, purchased in the main from war profits and we feel that disability incurred in the service of Canada should not be discriminated against in favour of the almighty dollar.

In conclusion, Gentlemen, may I say that I feel that we in Canada have the best pension legislation in the world, and the intention of the people of Canada has been to render to the men who served the same square deal that these men rendered to Canada in her time of need, but this desire has been frustrated by those who have been intrusted from time to time with the task of carrying out the provisions of the pension legislation because of a misconceived idea that they stood between the man and the state. The Canadian Pensioner's Association of the Great War, whom I have the honor to represent, are of the opinion that the success or failure of the Pension Act depends upon the men who are charged with the administration of the Pension Act. We believe that the wishes of the people of Canada must be carried out, in justice to the man and the state, and that all administrative officers must be actuated by a spirit of justice and equity, having regard at all times to the length, nature and type of service rendered to Canada.

There must be confidence in pension administration and we believe that this confidence can only be established by the selection of personnel who have the judicial capacity to act with the man and the state.

All of which is respectfully submitted on behalf of the Canadian Pensioner's Association of the Great War.

by FRANK G. J. McDONAGH,

Past Dominion President.

Witness retired.

The CHAIRMAN: We will now hear Captain Browne-Wilkinson.

Captain E. BROWNE-WILKINSON, Chairman Dominion Legislative Committee, Army and Navy Veterans in Canada, called:

The CHAIRMAN: Mr. Hale also has a brief submission or recommendation which he desires to place before the committee. I do not know what it is. Mr. Hale will tell us what it is. I see it is addressed to the Hon. Mr. Justice

[Captain E. Browne-Wilkinson.]

Hyndman, and I take it that it is a copy of the brief which you submitted to the Hyndman Commission, is that it?

Mr. HALE: That is right, sir.

The CHAIRMAN: You want that filed with the clerk in the minutes?

Mr. HALE: I would like for it to be included in the record if possible.

The CHAIRMAN: Will it not already be in the record of the Hyndman Commission?

Mr. HALE: It would be quite correct to put it on file.

The CHAIRMAN: We will put it on file. If everyone who gave evidence before the Hyndman Commission asked us to put the evidence they gave there on our record we would have a pretty voluminous report, and one in which it would be difficult to get at our own evidence.

Mr. HALE: As long as it is before your committee we are content.

The CHAIRMAN: All right.

The WITNESS: Mr. Chairman and gentlemen. First of all, if I may for the purpose of helping you in looking over this brief, you will notice that the brief itself is on the right hand page while on the left hand side on each occasion are the resolutions or parts of bills and so on to which I refer on the right hand page.

First of all I have a few general observations. You will notice that we divide the brief up into eight portions, and we deal separately with each portion, some of them being sub-divided. The initial statement which I have to make is based not entirely on my own observations, but upon resolutions passed by the Dominion convention and latterly by the board of directors. First, we recognize that there has been a vast improvement in the operation of the Canadian Pension Commission during the last two years, and we give all or most of the credit for that improvement to Mr. Justice Taylor. We then regret that there has not been the same improvement shown in the operation of the Pension Appeal Court. And thirdly we recognize the problem of unemployment not only of ex-service men but of all the population of Canada.

Having done that, I divide my brief into eight sections: I, Amendments to the Pension Act; II, Administration (P.C. 91); III, Amendments to Soldiers' Insurance Act; IV, Amendments to War Veterans' Allowance Act; V, Imperial Veterans; VI, Bill 26; VII, The Hyndman Report, and VIII, Bill 28—which as a matter of fact was handled by Captain Gilman when he was before your committee.

Dealing first with the amendment to the Pensions Act I state, the Army and Navy Veterans in Canada have no recommendations to make dealing with amendments to the Pension Act, other than the interpretation of certain clauses and also to state our appreciation that it is along lines that long since should have been carried out, and along the lines of the suggestions which have been advanced by associations of veterans for many years, namely, the elimination of the ten-year clause in 32 (2) of the Pension Act.

Having done that I go on to the second point, administration; which for the purpose of clarity has been sub-divided into four sections: (a) adjudications of the C. P. C.; (b) personnel of Pension Appeal Court; particularly (c) resolutions passed by the Dominion Convention of the Army and Navy Veterans in Canada at Vancouver in 1934; and, (d) certain observations made by the Dominion board of directors of my association last month on P. C. 91.

Dealing with the adjudications of the C. P. C. we state that the association, as by its resolution at convention, was very gratified at the appointment of Judge Taylor as chairman of the commission, and heartily endorses the work he has done whilst filling that position. Then, on the record at the left I cite the resolution which was passed by the association at the convention which reads as follows: "That we do hereby express our gratification at the appoint-



ment of Mr. Justice F. D. Taylor, D.S.O., as acting chairman of the Canadian Pension Commission." As I say, our gratification in that regard still continues.

Secondly we raise the point that we consider—I have made a slight change there, as it appears the word is "necessary"; I now change that and I say, it is very "desirable"—it is very desirable that the chairman have actual frontline service in order to appreciate the many human aspects of applications which must be taken into consideration. I will deal with that point further a little later on. It has to do with the personnel of the Pension Appeal Court.

Certainly I say, we believe it is necessary that the chairman should have the implicit trust and confidence of applicants, so that they will accept his final "no", thereby obviating the repeated appeals. Speaking as the result of communications I have had with members of our association from coast to coast and also with Captain Gilman, and I have found that on personal experience too, if a man finds that his case goes before somebody in whom he has confidence then even though the decision may be adverse he is much more liable to accept it even if a decision is given possibly quite rightly by somebody in whom he has not confidence. We feel that that is a point which should be borne in mind when appointments of adjudicators are being considered. We say that we believe that if these points are borne in mind many thousands of dollars may be saved by reason of the avoiding of repeated references.

Having said that I come to the second portion; mainly, the personnel of the Pension Appeal Court. After having sat here for two or three days I have come to feel that this is sort of a popular subject—everyone likes to get on the band-waggon and throw bricks—but I am a little doubtful as to whether this is a good time to throw bricks. On reflection, however, I think possibly it is just as well for me to say what I have to say and get it all in. I say, from personal experience and from discussion with the members of my association at convention at boards of directors and correspondence that the present personnel of the Pension Appeal Court is certainly unsatisfactory to the exservice men of Canada. I am not saying whether that is right or whether it is wrong; but I do think, Mr. Chairman and gentlemen, as an absolute fact, though rightly or wrongly, the personnel of the present Pension Appeal Court lacks the confidence of the exservice men throughout Canada. I am sorry that it should be so, but facts are facts.

*By Mr. Macdonald:*

Q. Is there any reason to believe that a change in personnel would be any more satisfactory?—A. As to what you are asking me, my reply would have to be personal, and I hesitate because it would involve comparisons and as you know comparisons are odious. There has been an occasion when a change was made in another adjudicating body with very very advantageous results, and whereas the head of that adjudicating body was undoubtedly unsatisfactory the present head of that adjudicating body has certainly merited, and has, the confidence of service men. I can only say that. I am not recommending changes, that is entirely up to the government.

Q. My idea in asking that question was really to find out whether or not in your view a change in personnel would make any real difference?—A. Naturally I have not read all the decisions but I have read many of the decisions, possibly only a small proportion of them, and I cannot but feel that a normal personnel would have given some of the decisions rendered by the present body.

*By Mr. Mutch:*

Q. The whole point you raise is that a majority of the returned men are dissatisfied with the present personnel. You cannot guarantee that they will be satisfied by any change you make. About all you could do is to allay their present dissatisfaction?—A. That is my opinion.

[Captain E. Browne-Wilkinson.]

*By Mr. Macdonald:*

Q. That is the result of the decisions the board have given, the complaint is as to that rather than as to personnel; isn't that the case?—A. I intend to prove my point by giving certain type cases entirely on the point.

Q. A change at best would only be a fair gamble?—A. Yes, that is true. There are two points when I come to the personnel of the appeal court; under the first I deal with them the way they are now, and secondly the way it is proposed they shall be under bill 26.

*By Mr. Betts:*

Q. There is something on that point on the opposite page which deals with the present personnel of the Pension Appeal Court. The resolution says: "Whereas the report of the finding of the Canadian Pension Appeal Court for the year 1935 shows an overwhelming preponderance of decisions against the ex-service men." It seems to me that that is the crux of this whole inquiry. We cannot by taking individual cases get anywhere. We want to get some figures that will show us just what the proportion of decisions against the ex-soldier is.—A. I have the figures here. I am prepared to state them at any time.

The CHAIRMAN: I am under the impression that that was filed with us at some time. In any event, we will see that it goes in the record. I know it has been mentioned a half a dozen times.

Mr. BETTS: My point is this: It is obvious that no court of appeal could give decisions always in favour of the ex-service men. There is a definite relation between appeals allowed and appeals dismissed in general court practice, and I think that would have a bearing here. What we want to find out is whether or not these courts of appeal are giving too many unfavourable decisions.

WITNESS: In my brief which is before you if you will turn to the page immediately opposite the one on which bill 28 is dealt with you will see in an appendix there the figures you are talking about. These figures have been checked over very carefully and I believe them to be correct.

Mr. BETTS: Thank you very much.

The CHAIRMAN: I know where I got the idea. Mr. MacNeil asked a question in the House and a sessional paper was brought down. As I understand it that was for the year 1935.

Mr. MACNEIL: I asked for last year, 1935.

The CHAIRMAN: We will put that on the record right now.

## RECORD OF PENSION APPEAL COURT UP TO FEBRUARY 29, 1936

Description of Appeals	Allowed	Dis-allowed	With-drawn	Decisions Pending	Remitted for Hearing	Unheard	Total
Applicants appeals from decisions of:—							
(1) Pension Tribunal.....	66	3,372	1	2	26	49	3,516
(2) Quorums C.P.C.....	16	2,171	28	14	40	738	3,007
(3) C.P.C.....	4	246	205	4	7	47	531
Total.....	86	5,807	234	20	73	834	7,054
Crown appeals from decisions of:—							
(1) Pension Tribunal.....	1,600	1,004			343		2,947
(2) Quorums C.P.C.....	35	28	14	7	42	28	154
Total.....	1,635	1,032	14	7	385	28	3,101
Grand Total.....	1,721	6,839	248	27	458	862	10,155

## SYNOPSIS OF APPEALS

## SYNOPSIS OF CASES OF REFERENCE TO COURT

(1) Favourable to applicant..	1,118
(2) Unfavourable to applicant	7,442
(3) Withdrawn.....	248
(4) Decisions pending.....	27
(5) Remitted for hearing.....	458
(6) Unheard.....	862
Total.....	10,135

Applications—	Allowed	Disallowed
(1) To entertain fresh applications for pension.....	410	510
(2) For compassionate pensions (Sec. 21).....	1	3
(3) To renew application for compassionate pension (Sec. 21).....	4	46

WITNESS: Mr. Betts brought that statement to attention, and he also referred to the resolution. I want to explain why I have not referred to that particular resolution. That was one which was passed by an individual unit of our association and then remitted to the other units and endorsed by them. It can't have the same strength as if it had been passed at the convention.

MR. BETTS: I understand.

WITNESS: Following up on that resolution I bring out why they think it is justified by reference to the statement opposite page 28. You have applicants appeals from decisions of the pensions tribunal, the quorums and the C.P.C. in which the applicant succeeds in 86 cases.

He was unsuccessful in his application in nearly 6,000—86 as against 5,807; and when the Crown appeals from the adjudications in exactly the same thing the Crown is successful in 1,635 cases and unsuccessful in 1,032 only. I am not very good at figures, but that looks as though the man was successful in about 10 per cent and the Crown appeals had been successful in round figures in about 60 per cent. Those figures, of course, should be carefully investigated; there may be good reasons.

MR. REID: It is hardly a fair comparison.

THE WITNESS: I appreciate that there are many reasons why the court should refuse it on one side and advance it on the other. To those of us who investigate, we can understand that situation, but the ex-service man or men as a whole who see these figures when they are published get dissatisfied.

MR. Mutch: I cannot understand it. How would you like to explain it?

THE WITNESS: I shall not attempt to do it. Probably the committee will call in officials who can explain it. Having got a general atmosphere of dis-  
[Captain E. Browne-Wilkinson.]



satisfaction, may I say that there is in the psychology of certain members of the appeal courts something which does not make for good adjudication in pension matters; and I want to say this, gentlemen, that anything I say is entirely impersonal because I happen to have the pleasure of knowing two of the three members of the appeal court very well, they are friends of mine, and I have always found them only too willing to discuss matters with me. One of them has for years been a very prominent and able member of the appeal court of Alberta, and the other one, Colonel Sherwood, I consider to have one of the most analytical minds I have come across. Probably he would make a first class mind on King's Bench; but because of that mind I am satisfied he does not give that attention to section 73 which was put into the Act for that purpose. All too frequently he ignores the provisions and considerations contained in that section. To back that up I want to bring to your attention some of these type cases which I have prepared. I will take the second one first. "R.B.W." I want to point out the facts which are known not only to the committee here but to the ex-servicemen in Canada. In doing so I am not reflecting on the gentlemen, but of the three members of the present appeal court only one saw service in France. Therefore, when we are dealing with a condition of affairs concerning a man in the line it is only to be supposed that the other two members will look for their guidance to that member who served in the line; in other words, Colonel Sherwood is the authority on that court as to the conditions under which men served in the trenches. Then when I find in cases—and I may mention several of them—the fact that he discusses a man who has lengthy meritorious service "but merely as a cook" with a man who was not in France in the line, that man may visualize the fact that a man who was a cook was a very long distance behind the line—perhaps down at brigade or divisional headquarters and was seldom in danger of his life; there was nothing like active service. Those of us who saw front line service know that our battalion or regimental cooks were pretty close at hand and under just as much shell fire as we were, the only difference being that the man in the line was holding a rifle which was of some protection and the other fellow had a frying pan. The fact remains, therefore, that when in basing the judgment of the court they say they cannot think that this man's service in the line could have affected his neurasthenic condition because he was only a cook, I think they start off with the wrong background. I am going to read this case to you. I am dealing with that question of retroactive pension, and this same case will apply.

The CHAIRMAN: I do not want to interrupt you, and I am in the hands of the committee, but I am wondering whether any very useful purpose will be served by discussing here individual cases which, apparently, have gone to the court of appeals and have been heard in last resort. I mean discussing them in detail. I am in the hands of the committee, but I would suggest that we shall not get very much farther by doing that. If the committee think we should go ahead, I am quite willing. We are getting an appreciation by Captain Browne-Wilkinson of a judgment which is final, and we are getting his appreciation of it without knowing very much of what the case is all about. The court of appeals must have had some reason for throwing his case out. I do not know whether we should really hear the details of it. I think the case could be studied and the members themselves could draw the files and look over them if they like; but should we throw out to the public every case against which somebody has complained, because if we allow one we may have to allow twenty. As I say, I do not care; I have no desire to protect the appeal court; I did not appoint them.

The WITNESS: If you take the matter up the cases are before you. In a few words I will point out what I am trying to prove in this particular case.

The CHAIRMAN: If it is considered advisable by the committee we could appoint a sub-committee to go into these cases and make a report to us on what they think of the matter generally. It is not doing this particular man any good; he cannot get anywhere under present legislation, and I do not know that there has been any thought or suggestion to us that those cases should be re-opened.

Mr. MACDONALD: If you appoint a committee there will be no end to the work. I know of a lot more cases which, I think, I would like to have examined if there is a committee to examine them.

The CHAIRMAN: The only reason for the committee would be to have them examine these cases and tell us whether in their opinion, after having gone through them, a certain number of decisions of the Pension Appeal Court should be questioned. I think that is about the only thing we can do.

Mr. Mutch: These cases are submitted either as suggestions of incompetence or prejudice against personnel of the board.

The WITNESS: Not entirely. In No. 1 case—

The CHAIRMAN: Does the committee want to go into these individual cases or not?

Mr. Brooks: These are only individual cases to illustrate the point the witness wishes to bring out.

The WITNESS: That is all.

The CHAIRMAN: You do not want to discuss the whole case?

The WITNESS: No. I will not do that.

The CHAIRMAN: It is in the hands of the committee to decide generally whether the witness should be allowed to proceed on that basis.

Mr. Mutch: Don't read the cases into the minutes; you can file them. If the witness wants to draw a sentence from the judgment I do not see why he should not do so.

Mr. HAMILTON: All the various witnesses are doing here is giving us cases based on different types of cases they know, and these things they are advocating are the result of their investigation of cases in detail. It seems to me it follows that if the Pension Appeal Court is thought to be improper in personnel or in any other way on their decisions that more or less involves the necessity of opening up cases that have already been decided. Otherwise, we must admit that they were properly decided.

The CHAIRMAN: My idea would be that we should discuss those matters by means of a sub-committee, because every man who has had his case turned down by the Pension Appeal Court will say that his is a type case. In nearly all the cases one gets they say that they do not want to draw your attention to their particular case, but it is one of hundreds.

Mr. REID: The opinion has gone out in British Columbia, and I now have fourteen letters from pensioners who think we are here to investigate cases. That opinion is going out, and they say, "I hope you will bring my case before the committee."

Mr. Brooks: Fourteen? You are lucky.

The CHAIRMAN: It seems to be the consensus of opinion that the witness should go on. Is it agreed that if he goes into too much detailed examination of specific cases we shall try to check him?

Hon. MEMBERS: Yes.

The WITNESS: You have these cases before you. No. 1 case. "J. V." I will leave for the time being. The second case is one where the opinion of the doctor, Dr. A. T. Mathers, a noted psychiatrist of Winnipeg examined the man and read his file and gave an opinion which was not acted upon by the department. I also

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bring this to your attention that the man first got a favourable decision and a recommendation for 100 per cent pension as long ago as September 1931. The case went up to the appeal court, was admitted for further hearing, and the man got a favourable decision. The case went back to the appeal court, and then, despite the two favourable decisions, was rejected. Later permission was given to re-open the case and the quorum investigated this man together with a doctor some time last summer, and we are still waiting for another adjudication of the C.P.C. either for or against him. Now, in that case, according to the suggestion in bill 26, he would only be allowed to get his pension back for one year, yet five years ago he got a favourable decision for 100 per cent, and he has been scrapping to retain that ever since. That is the point in No. 2.

*By Mr. Mutch:*

Q. Who is the author of that beautiful line, "he was presumably much upset at the time", referring to a man who had been buried alive?—A. Colonel Sherwood, sir.

Q. He should have signed it?—A. He did. The next is case 3. There is another reference which states that he was "largely employed as a cook". This man for a period happened to be in my regiment overseas as our staff sergeant cook and he succeeded another staff sergeant cook. He was three times wounded and also decorated for bravery. Again the impression is given the party who wrote this judgment—again Colonel Sherwood—that cooks were not very close up in the line. I suggested that the whole departure was wrong. However, that man eventually got his pension after fighting for it with repeated favourable decisions from the lower court and reversed by the upper court, and then re-opened. He started his scrap in 1928, got his first hearing which was favourable and was awarded 100 per cent in 1931. Then it was reversed backwards, and finally it was not until last October that they agreed to give him a 60 per cent pension. Again, I am suggesting that there are cases of that description where a man five years ago got a favourable decision. I think it is a little unfair in 1936 if you say "you are going to get for your 1931 adjudication one year retroactive pension."

Now, we are coming to the question where the opinion of noted international specialists have been entirely ignored and overruled by the Pension Appeal Court. No. 4 "W. P." The doctor referred to there is Dr. Boyd. To those of you who belong to the medical profession Dr. Boyd of Winnipeg is well known. I understand he is one of the outstanding pathologists in the world to-day. I believe I am not exaggerating his standing in the medical profession when I say that. After very careful reading of the whole of the district office file and discussing the matter with Dr. F. A. Young who was an overseas doctor and went over with the first contingent in the 6th battalion, and the doctor who attended this man for many months in hospital, he gave it as his studied opinion that this man's death could be ascribed directly to the condition for which he was receiving pension. The case went up to the appeal court, and the appeal court denied the man's right to a pension. I personally took that matter up with Judge Hyndman because of certain statements made in Winnipeg, and an understanding was arrived at why I could not get any better evidence than that of the attending physician, a man of standing in his profession and an internationally known pathologist like Dr. Boyd. It was suggested by members of the appeal court that, perhaps, the doctor in giving his evidence before the quorum had not been in possession of the full facts and, therefore, it was arranged through the deputy minister here that the head office file should be transmitted to Winnipeg and a certain cardiogram, which the court had commented upon, should be brought to Dr. Boyd's attention. That was done. Dr. Boyd had the head office file brought to his attention, and he then wrote a letter giving it as his definite and confirmed opinion again that the condition from which the man died was connected directly



with the pensioned disability, and when it came up before the appeal court it was swept aside by the judgment of Colonel Sherwood.

Q. Was it swept aside as the result of conflicting medical opinion?—A. That was the only medical opinion that was given; there was no other evidence of conflicting medical opinion. There is one point to notice there and it is that in the decision of the appeal court they say: "The doctor says he died of thrombosis and he thought that was connected with arterio sclerosis, though in 1927 it was agreed that he had arterio sclerosis as well as myocarditis; yet the reference did not say that the arterio sclerosis was connected with service. That is in the written judgment of the court but, as a matter of fact, Dr. Boyd in drawing up his considered written opinion draws the connection between the thrombosis and the myocarditis for which he was pensioned rather than the arterio sclerosis. If that is the case I do not know why the appeal court went out of its way to misread the studied written opinion of such a noted doctor.

*By Mr. Hamilton:*

Q. How did they get the evidence of Dr. Boyd?—A. He gave it personally before the quorum.

Q. Who induced him to give it, and how did he come before the quorum? Was it voluntary on his part, or did the applicant secure his services?—A. I could not tell you. On the second occasion I furnished it myself, and he looked over the headquarters file. I was not handling the case in the initial stages, and it was only brought to my attention after it had been rejected by the appeal court in the first instance.

Q. I am interested in the angle of finding out how this man could have secured the assistance in the initial stages of such eminent men?—A. I am not trying to boost my association, but it is a fact that the Army and Navy Veterans do from time to time make such assistance available.

*By Mr. Mutch:*

Q. It might also be due to the fact that that particular doctor is more or less of a philanthropist where returned men are concerned?—A. Yes, very much so. I want to put that on record too. I want to say not only for the Army and Navy Veterans but also for all ex-service men that they appreciate very much the gratuitous services which have been rendered to ex-service men by medical men.

*By Mr. Hamilton:*

Q. Without evidence of that type that man would not have the slightest chance with the board?—A. No, sir.

*By Mr. Cameron:*

Q. You say that the appeal court completely disregarded the medical evidence?—A. Entirely so.

Q. Was it unanimous?—A. I believe so. There was no dissenting judgment.

Q. Who was the third member?—A. Mr. Richard. I think he came from New Brunswick.

Q. Is he the ex-service man?—A. No, Colonel Sherwood is the ex-service man.

Q. And he does not know what a cook does?—A. He does not appear to know from some of his judgments.

Q. He may have had a bad cook?—A. Perhaps he did. Personally, I have nothing to say about Colonel Sherwood. I have found him a first-class fellow, but I have a right to differ from some of his judgments, and I do.

The last item I want to draw to your attention is No. 5. This is a young fellow who at the age of seventeen enlisted in 1915 and went overseas with the [Captain E. Browne-Wilkinson.]

1st C.M.R.'s and he served in France for some considerable time, being three times wounded. I think Mr. Mutch probably remembers this young fellow; he served in his battalion. He enlisted when he was seventeen and was three times wounded in France, and on his history record in France, in addition to his wounds, there is a record of influenza which he was in hospital for, I think, approximately two weeks. There is very considerable lay evidence that from the time of his discharge he became progressively worse with a chest condition until he finally started to spit blood, went into the Ninette sanitarium where he was personally attended by a man with a wide reputation, Dr. Stewart, of Ninette sanitarium. The man applied for pension. Dr. Stewart gave evidence very much in his favour, and Dr. Adamson, who had been called in likewise to give some evidence, but his evidence was not based on personal contact but on X-ray. For reasons known to themselves, the court in their judgment, written by Colonel Sherwood, entirely ignored the medical opinion of Dr. Stewart and also took those parts of the evidence of Dr. Adamson which were of a nature not wholly in favour of the ex-service man, where he could not give a definite opinion.

*By Mr. Macdonald:*

Q. I suppose this disregard of medical evidence applies not only to the appeal court, but also it has been the case before the quorum?—A. I will deal with that afterwards on another case. This application was made on procuring evidence of certain men who saw service right in the line with this soldier, and the question was taken up with the appeal court as to whether they would consider that sufficiently new and important evidence—evidence put down in the form of an affidavit—and the type of man who gave the affidavit was also vouched for by people who were in a position to know. That was then taken to Dr. Stewart who gave a very full and comprehensive statement in which he definitely stated that in his opinion the additional evidence merited a reconsideration of the case. Further on he said, “it certainly does merit a re-hearing.” Despite that opinion in this case of one who went over as a kid and was three times wounded, the court refused a rehearing—not to grant him anything—just to re-hear him. Gentlemen, those are some of the reasons why the ex-service men of Canada feel that he has not had a square deal. That fellow has a lot of pals and he has friends all over among organized ex-servicemen of Canada. Type cases like that undoubtedly sway the opinion of the fellows who do not like the present personnel. It may be all wrong, but the fact remains that they do not like them; they have no confidence in them.

Now, gentlemen, I come to sub-paragraph C on page 2 of my brief. I make a statement there which, after all, you will appreciate mainly as a matter of personal opinion. I do not want to say it is accepted from coast to coast by the association as such; it has never been presented to the Dominion convention, but I think I would, at least, have someone to second the motion if I made this as a motion:—

“This board in the first place was organized as the final safeguard to the applicant, but has turned out to be his worst enemy.”

Possibly those words are a little too strong; but they certainly have worked more against the man, in my opinion, than for him. I am suggesting that in the percentage of decisions by the quorum in his favour where the decision is more than 50 per cent against him shows he has lost out, where he expected to receive different treatment.

Now, that is dealing with the personnel at the present time. They are there. They may be improving. I trust they are. But as an association we are asked when we come here to give the opinion of our association as to whether or not we are favourable to the suggestion contained in bill 26 that the personnel of the Pension Appeal Court shall be absorbed and become part and parcel

of the Canadian Pension Commission. First of all, I shall go back and say that in the main we have found many who are favourably inclined towards the present C. P. C. and its personnel, and we cannot feel that absorbing an unfavourable personnel would improve the personnel of the body which we like today. We say this, that even if the suggestion of absorbing the personnel of the appeal court in the Pension Commission is carried out it is questionable whether such procedure would eliminate some of the present objections. We say, however, that we are not deciding this issue. We say that, perhaps, there is reason for this change which is unknown to us and which might be explained. Gentlemen, we naturally do not have the nerve to say that we are going to make the Pension Commission; we only make our submissions, and, of course, leave the matter to you for consideration.

The CHAIRMAN: At the present time you do not seem to want to make the Pension Commission; you want to employ all the officers of the board and commission. If you want to take the job of the Civil Service Commission over, I would be glad to give it to you. For the last hour you have been telling us who the personnel should be that is employed by the department. That is what I take your idea to be.

WITNESS: I never intended to go that far. I want to say this— and this is a personal observation in the main— because a very large proportion of the ex-servicemen's association naturally have legal experience. When I made the suggestion of a court-en-banc instead of an appeal court I did so having in mind my law school days when the question of a court-en-banc as compared to an appeal court was very frequently discussed on more than one lecture to which I attended. I do not know when it was but I think it was in the 70's or 80's they had a court-en-banc which was found to be unsatisfactory and they established the appeal system which is still in vogue.

The CHAIRMAN: They abolished it in some of the provinces too.

WITNESS: I am well aware of the fact that practically every province in Canada considered it and they decided that the court-en-banc had objectionable features, and it was because of that that they eliminated the court-en-banc system which has been here suggested.

*By Mr. Reid:*

Q. What kind of a court is that?—A. It is a system under which you have courts of first instance of all the judges who are on the same court; for instance take the court of the King's Bench in Manitoba. They will sit together, with the exception of the judge who first heard the case. One of the difficulties which was found, and I am satisfied that the chairman will agree with me in this, in the court-en-banc system was that the human element enters into it. You see, you have five judges in a court of King's bench and one of them renders a decision possibly after very long and mature consideration. Possibly he was very pleased with the decision at which he had arrived. He renders his decision and it is appealed, and the other four judges sit upon it. The usual procedure is that one of the judges writes the decision of the court and the others just say I agree with my brother so and so; and that particular judge writes a decision reflecting upon the decision of the trial judge. Naturally the human element enters into it. The trial judge whose decision has been reversed is a little sore, although he may not show it, and he says to himself just wait until I get a case of yours before me next time; that is, when the judge who writes the decision of the appeal court sits as a trial judge and his judgment is appealed and this first judge writes the decision for the court-en-banc.

[Captain E. Browne-Wilkinson.]



Mr. MUTCH: Might I suggest if what you have outlined is correct what you are suggesting might be a good thing for the applicant; if the other judges are going to upset the judgment of the judges who made these decisions. The percentage being what it is the returned man will profit from it.

*By the Chairman:*

Q. Might I just put this to you: If the members of the tribunal did sit in-banc, would the 1,600 cases taken to appeal by the commission be allowed, do you think?—A. In answer to that question might I say this, you have two different things to consider here; first of all, is the system of the court-in-banc one which if put into effect by bill 26, as a result of experience over very many years, is it likely to be a good one? That is the first question to be answered.

The CHAIRMAN: It is considered reactionary in legal circles. There is no question about that.

WITNESS: That is one thing I suggest, Mr. Chairman and gentlemen. That is entirely different from personnel. As I say, you have two things to consider. If the personnel stays there very well and good. As I say, it may be improving. I am not here to discuss the firing of these gentlemen or anything. I just say that first of all I doubt it is a good thing to have a court-in-banc; and secondly if you insist upon having it I doubt whether having these particular three gentlemen as part of the court-in-banc will improve a system which in the past has been shown to be unworkable.

The CHAIRMAN: I don't get that, would you mind repeating that?

WITNESS: The court-in-banc system I am suggesting has been found in the main to be unworkable.

The CHAIRMAN: Quite.

WITNESS: Are you going to make it a workable system? And if you do put it into effect will it work if you put on it three men in whom the ex-service men in Canada have no confidence? However, that is just the thought I have. Now, I suppose I have laboured at some length on that.

*By Mr. Hamilton:*

Q. In the ordinary appeal court practice is it not the general idea that the appeal court does not try the case over again, but merely if they find that the trial court could have found the verdict or decision which they came to they do not change it. That is not the case in the Pension Appeal Court?—A. There are many features in our appeal court here which are not found in legal practice.

Q. I have in mind now that if the trial court hears the evidence and gives its decision, say it is a criminal case or anything of that type, if the judges in the appeal court are convinced that the judge in the trial court might reasonably have come to the decision which he did they do not interfere with it. Would this court you are suggesting do that?—A. That would help a lot, sir.

Q. That is not the case now?—A. I am not suggesting for a moment that the procedure of the Pension Court of Appeal should be entirely that of a court of appeal. In respect of these matters you must have that, and at the same time under section 73 that is impossible.

The CHAIRMAN: Is there not some merit in having as members of the appeal division persons who have been in the habit of hearing these cases and seeing the men who have made application. That if anything would be a justification of that "in-banc" business. Like a great many other things, I am not wedded to it, but it was suggested to me. I am rather inclined to think there is some merit in it, that the very men who see these applicants and hear the cases will be in closer contact with them than they would be when they are put on a pedestal in a court of appeal.

Mr. Mutch: I think the non-legal members of the veterans in Canada would be inclined to favour that idea.

The CHAIRMAN: That is an argument for the court-in-banc, and to my mind the strongest one. What would you say to that?

WITNESS: I do appreciate, sir, that it is an advantage there where the man knows that at least some time the adjudicators have been in close contact with him.

Mr. Mutch: Hear, hear.

WITNESS: I must acknowledge that it has been said to me on many occasions, you know these men have never seen us and they have never been in the army—you know how it is, they think they know nothing about it, except on a straight yard rule. On the other hand, it is going to be difficult unless you change the personnel which now constitutes the court. I must acknowledge, speaking personally, that I like the present system although I do not like the personnel of that one court. I do feel that if in time to come when their time has expired—and some of them now must be getting along that way—in filling vacancies in the Pension Appeal Court they might be filled with men who have served on a lower body. I think there is some merit to that.

*By Mr. Brooks:*

Q. Before you leave that point: I listened here to the discussion about doctors. The point was brought out that a returned soldier had more confidence in his own doctor, or at least that his own doctor had more sympathy for the returned soldier than would an overseas doctor. That seems to be a contradiction of what you were saying about the opinion of the returned men in respect to the appeal court, about those doctors not having sympathy for the returned men?—A. Please do not take me as saying that the opinion of overseas doctors is not sympathetic to the men. They are very sympathetic and they have a fine understanding of the problems involved.

The next portion of the brief that we come to is section 10 (c), under administration. The resolution passed by the Vancouver convention in respect to this section I consider very important and one which may be of assistance to this committee and to the adjudicating bodies on a section which has been discussed and condemned for a number of years, section 73. The resolution reads:

That in applications under the Pensions Act, and in applications made by prisoners of war, the strongest presumptions of entitlement should exist in cases where the applicant had lengthy and meritorious service in the front line area in a theatre of war;

And further in such applications, regard should be had for the conditions of service, such as weather, housing and the like, which would tend to affect the health of the applicant, which information can be secured from war diaries and other reliable sources;

And in the case of prisoners of war, presumption of ill-treatment and malnutrition should be assumed;

And that section 73 of the Pensions Act should be construed in the sense above set out.

Referring to that I say as follows: Four things are to be noted here—(a) calibre of service, especially if it was lengthy and in the front line; (b) that a record of service conditions would be of particular assistance to doctors in chest and lung conditions, and all diseases of insidious origin and slow progression, etc., especially where the man was in front line, and records were either not completely kept or had been destroyed and the witnesses killed.

[Captain E. Browne-Wilkinson.]

Mr. Chairman, I have reports and I am so instructed by Captain Gilman and other unit dominion adjustment officers of all veterans associations, that they have found considerable difficulty in getting the evidence required, overwhelming evidence sometimes required, not only by the C.P.C. and the quorums but especially by the Pension Appeal Court because of the lack of documentary evidence which very often as most of you here know is not available—after you came out of a scrap, or it was impossible to get in touch with the men who were present when blows were struck. Records certainly are available in the records office as to the conditions of the line during certain periods. For instance, in the case of anyone who was over with the first contingent and spent the winter of 1914-15 on Salisbury Plain in all that mud and corruption and then subsequently within a reasonable period developed a chest or lung condition, and knowing that the man in the first contingent especially went there on a most careful medical examination, it was far more so than with subsequent contingents and you could take him as being absolutely in first class condition if he got into the first contingent, he was a physically perfect specimen. Then, if he spent a winter on Salisbury Plain in all that mud and corruption of 1914-15 and later developed a chest condition I think the reasonable conclusion would be that it had some connection with that period and those trying conditions. The same thing would apply for men who were for long period in the line, especially in some portions of the line where the rain and the mud and the corruption was worse than it was in others. This could be found out, and if you could prove that this man had been in the first contingent down there at Salisbury Plains and later in various portions of the line where he had been under bad war conditions for a very lengthy period, although there was nothing on his history sheet showing that he had ever gone sick with colds or bronchial pneumonia or anything else of the kind, we are suggesting that there should be a presumption in his favour. We believe that is the intention of section 73.

Now, that is a rather long-winded address, but that is what I am trying to bring home. If you read it over afterwards, taken in conjunction with the resolutions you will understand what we are suggesting.

Then, we say there should be a special presumption in favour of prisoners of war. I do not know whether any of you gentlemen were prisoners of war or not. I was not. But I have heard some very heartrending stories of conditions in the German camps from men who served in my own regiment whom I believe were telling the truth, and if even a portion of what they say is correct I think the presumption suggested here is justified.

And finally we say that the adjudicators in both the appeal court and the C.P.C., which of course is the new quorums, should be instructed to construe section 73 in the above light.

Our next resolution there, resolution 3, deals with section 11. On checking over conditions as they exist today I am satisfied that the situation has improved considerably in comparison to what it was in 1934. However, the resolution was passed and I will put it on the record:—

We protest against the restricted manner in which the Canadian Pension Commission have recently been interpreting sub-section B of section 11 of the Pensions Act, and request amending legislation be enacted, if necessary, to restore the construction heretofore placed on this section of the Act.

I am not going to labour that because I think in the main that condition no longer exists. But it is a resolution passed and I put it on the record.



The next resolution is one which has been repeatedly aired before this and other committees; namely, the interference of the Auditor General. I will put that into the record:—

We protest against the Department of the Auditor General of Canada interfering with the adjudications of the C.P.C. and request that if necessary legislation be enacted clearly defining the limits of the authority of the Department of the Auditor General in relation to the Canadian Pension Commission.

SIR EUGENE Fiset: I was under the impression that that had been entirely eliminated.

WITNESS: I have placed it on record because it was before the convention.

The CHAIRMAN: I think we called Mr. Gonthier, or one of his representatives, before our committee in 1930. I remember we had quite a row with them over it. I think that brought about the system of reviewing pensions in 1932 was largely the representations made by the Auditor General. Am I right in that, Mr. Bowler?

MR. BOWLER: That is correct. Our objection was taken in 1932.

The CHAIRMAN: In 1930 we examined the Auditor General or his representatives, and so far as we were able to we told them to mind their own business.

MR. BOWLER: That is quite right, sir.

The CHAIRMAN: In 1932 as a result of the representations they made to the government this wholesale review was undertaken. Am I right in that?

MR. BOWLER: The review was made as a result of the activities of the Auditor General.

The CHAIRMAN: That is right.

WITNESS: Mr. Bowler has just mentioned what I was going to say, that was the reason a review was proceeded with.

*By the Chairman:*

Q. That sort of thing is finished now, isn't it?—A. I hope so.

Q. I mean, are there any complaints that it is going on now? That is what I would like to know.—A. Perhaps Mr. Bowler can answer that better than I can.

MR. BOWLER: I have heard no special complaints recently.

SIR EUGENE Fiset: Since the comptroller general has been appointed I do not think the Auditor General's office interferes with decisions of either the Pension's Board or the Pension Appeal Courts any more.

MR. BOWLER: I believe that is so. That is the situation at present. Of course, even under the comptroller general there are instances from time to time where some question arises, but it is not a very substantial issue I would say at the present time.

The CHAIRMAN: I imagine employees of the Department of Finance who are in the Department of Pensions must occasionally check up on some of these things. I assume they do. That is what they are there for. I have no control over them. They are appointed by the Department of Finance to check expenditures by the Department of Pensions. The payment of relief and all that is under the Department of Finance. There is a representative in every district. Under the present arrangements there is no longer any necessity for the Auditor General to check it.

SIR EUGENE Fiset: Unless the accountant of the commission, or the comptroller appointed by the Department of Finance, brings to the special attention of the Auditor General a specific case.

[Captain E. Browne-Wilkinson.]

The CHAIRMAN: Oh, yes. So that in so far as this complaint of yours with respect to the Auditor General is concerned, there is now no grounds for that, because he has nothing to do with it. If anybody has anything to do with it I think it would be the Department of Finance. I think that is the situation.

The WITNESS: Now, the next one is resolution 5. It is opposite page 3 and deals with section 1, meritorious marriage allowances. It reads:

That in all cases where the pensioner has married in good faith and, for some reason of which the pensioner was not aware at the time, the said marriage is subsequently shown to be invalid thus precluding the receiving of the marriage allowance, the discretionary powers granted to the commission in section 21 of the Pensions Act shall be invoked whenever possible;

And further where an apparently valid marriage is proved, the onus shall be upon the commission to establish bigamy or invalidity for other causes.

In regard to that I say, whilst it is appreciated that Mr. Justice Taylor has given his personal attention to hundreds of marriage cases, and that his adjudications have been wise and in the main entirely satisfactory to those concerned, it is felt however that further discretionary powers should be granted to the C. P. C. under section 1, of the Pensions Act so that when a ceremony has taken place in good faith which afterwards turns out to be bigamous the commission may deal with it on its merits, with the question of support for the dependents. We just say it is a question of its merits. There are those cases good faith, and possibly the wife was of the opinion that the American divorcee and a subsequent remarriage. The pensioner in this case married in entirely which have come to our attention where there has been an American divorcee was entirely good. The man may have been a very heavy pensioner. She may have raised a family for him and she may have been of material assistance in making his declining years a little more comfortable. Suddenly as a bolt from the blue there comes this well founded charge of a bigamous marriage negotiated entirely in ignorance in so far as both he and his wife were concerned. But under the Act it is not possible for any provision to be made for the wife.

*By the Chairman:*

Q. Would they come under the meritorious clause? Would that not cover it?

—A. No. The meritorious clause has not been used.

Q. Is it barred under the meritorious clause? Doesn't that clause cover these cases?—A. No. We claim so. There have been a series of decisions given by the Pension Appeal Court as to "specially meritorious". That "specially meritorious" I believe even the chairman considers involves lengthy service. That being the case a man might not have very lengthy service. He may only have been in the line a very short time before having a large part of his anatomy shot away. You could not call that lengthy service.

*By Mr. Mutch:*

Q. Are you suggesting that the meritorious clause has been defined, that they have definitely defined what constitutes meritorious service?—A. It is something along these lines, decisions have been rendered which have been somewhat of a guide.

The CHAIRMAN: That has been filed.

*By Mr. Betts:*

Q. I take it that you are saying that the meritorious clause has never been invoked in connection with these marriages?—A. No, and it might have been.

*By the Chairman:*

Q. Are you sure of that?—A. I know it has not.

The CHAIRMAN: Mr. Bowler, was not the meritorious clause invoked in connection with some marriage case?

Mr. BOWLER: That is my impression.

*By the Chairman:*

Q. When was that resolution passed?—A. In 1934, sir.

*By Mr. Green:*

Q. Might I ask the witness if he does not think it would be better to make special provision for these cases rather than to try to put them under this meritorious clause?—A. That might be. I am not making the act.

The CHAIRMAN: I think so too. It is not meritorious to have contracted an invalid marriage.

Mr. GREEN: That is what I was wondering.

WITNESS: My duty as I see it is just to bring the suggestion to your notice, then you can use it as you like.

The next one is resolution 6. This is in explanation of section 32: "We are of the opinion that where a pensioner in receipt of a pension within classes 1 to 10 inclusive, dies in necessitous circumstances some allowance should be made payable to his widow and dependents under section 1 of the Pension Act". That is a discretionary section and we point out that classes 1 to 5 are already provided for in section 32 (2); and the objectionable feature, the ten year limit, it is suggested should be eliminated by the new bill 26. We say: This resolution recognizes the fact that the commission will seldom acknowledge that a man died of his pensionable disability if he was in receipt of a pension less than 55 per cent and yet very often he was so incapacitated that it was impossible for him to make any provision for his family, and especially the wife who may have nursed him for many years. Here again each case stands on its own merits and, with a chairman of the calibre of Mr. Justice Taylor, could be left in his hands".

We do suggest, therefore, that there are many cases of hardship where a man is really 100 per cent incapacitated but only 55 per cent pensionable for this particular disability. He can't do anything to supplement his income. He is not in a position physically to obtain any insurance or make any provision for his family or for the wife who has helped care for him for many years. We are not asking on this particular occasion that you come right out and say that the widows of all men who died, 55 per cent and upwards, shall get a pension; but we do ask that some consideration shall be given; that this is one of the types of cases that parliament had in mind in inserting the special clause 21, the discretionary meritorious clause.

*By Sir Eugene Fiset:*

Q. That was dealt with when resolutions 9 and 10 were discussed?—A. Yes, sir.

WITNESS: There is one section with respect to fraud cases. The main point in that is that where there is no evidence of fraud or misrepresentation, on the part of the pensioner no recovery of alleged over-payment by the department should be made. And the resolution says "We do request that in all cases where there has been a change in the basis of entitlement without any evidence of fraud or misrepresentation on the part of the pensioner no recovery of alleged over-payments shall be made, in view of the fact that such over-payments were due to the mistake of the commission and not of the pensioner." In other words, if there was no fraud no recovery should be made from the man for the past pension which he received in error. We ask that that be considered.

[Captain E. Browne-Wilkinson.]



The CHAIRMAN: That is being done now, isn't it?—A. I trust so, sir; it was not for a long time but it may be the case now.

The next two have been dealt with. The next one deals with the matter of drastic reductions in pensions. I do not know whether that has been taken care of or not. I draw that one to your attention:

That under the law, pensions paid on the scale thereof pertaining to the individual and under the law no consideration of employment or circumstances affected the same, and that the honourable the Minister of Pensions and National Health be requested to see to it that the law as now existing in this regard be rigidly adhered to.

*By the Chairman:*

Q. Are there any instances of that other than the suggestion made in parliament?—A. We do not want parliament to make another break.

Further, where there is a drastic reduction in assessment of pension made by faulty diagnosis or other circumstances not within the knowledge or control of the pensioner, such reduction shall be carried out in such a manner as not to imperil the livelihood of the pensioner and his family, and that in all such cases, due regard be had for the circumstances of the case.

I am not prepared to say how many cases this affects to-day, but I do know of many tragic instances in Winnipeg where there was an immediate cutting off with extreme hardship to the family. I know of one man who was in receipt of 100 per cent pension and possibly, quite correctly a faulty diagnosis was found, and he was cut right off. He did not get 5 per cent. He was struck from 100 per cent to nothing. That is an extreme case, but he was an elderly man and he had a grown up family and he was supporting two or three married sons and two or three married daughters who are out of employment and he kept them off relief with this 100 per cent pension. It was cut off and the whole lot were thrown on relief and the man's home was entirely broken up.

*By Mr. Mutch:*

Q. Was it a case of fraud?—A. It was a case of faulty diagnosis. There was no question of fraud. The commission had granted 100 per cent pension and then reviewed the case and the diagnosis was found to be incorrect and the war pension was cut off. The man was examined and it was found he was not entitled to pension. We would say when these cases do occur, let them be treated so that they gradually disappear without undue hardship, where there has not been fraud, and where there has been good faith throughout.

Q. What justification could there possibly be for making a pension possible for a man who was clearly not entitled to it? You are asking for a special pension for him on compassionate grounds?—A. No, I am not. Pardon me, the point was this that here is a case of a man who was granted a pension on a wrong diagnosis. The case was afterwards reviewed and the diagnosis was changed and they found that the man was not entitled to pension. That was all right. He ought to be cut off from pension, but it should be done gradually.

Q. Yes, every dollar you pay him for the time you decide he should not get a pension is a special pension on compassionate grounds?—A. Yes, of course in that regard —

Q. That is what you are asking for?—A. Yes, a gradual reduction.

*By Mr. Ross:*

Q. How long did he draw the pension?—A. In this particular case?

Q. Yes.—A. I could not tell you offhand; it was some considerable time, some years.

*By Mr. Macdonald:*

Q. Do I understand that pensioners are not now being called in to be re-boarded?—A. I am not in a position to immediately answer that.

The CHAIRMAN: There was an order to that effect issued some time ago.

*By Mr. Macdonald:*

Q. If they are not now being called in to be re-boarded they will not find any such instances?—A. We hope they will not anyway.

The CHAIRMAN: Those resolutions were passed in 1934. That condition has been materially changed by the order in February issued by the Board of Pension Commissioners and by the department that unless in cases of fraud or certain extreme cases there would be no more reviews.

Mr. MUTCH: That settles this whole question.

The CHAIRMAN: I am quite willing to file that order at any time.

Sir EUGENE Fiset: I wish you would also file P.C. 91 because it is being referred to here and no one knows the substance of it.

The CHAIRMAN: I think it was filed. I thought every member of the committee had a copy of it.

Mr. MUTCH: I have not seen it.

The CHAIRMAN: I will see that you get a copy.

WITNESS: The next question deals with dental treatment:—

That the question of dental treatment presents many different phases. Conditions arising in the mouth which sap the vitality of the patient and seriously undermine his health and create in their turn other conditions progressively worse, should be distinguished from ordinary tooth repairs and the like;

We are of the opinion that dental regulations should take cognizance of these facts and adequate preventative measures taken in order to save the health of the patient and prevent him from becoming a public charge.

In that regard we say:—

In substantiation of this resolution it is suggested that if a man is suffering from a condition which is very often due to teeth and the doctor recommends that they have their teeth out, the government undertakes under the War Veterans' Allowance Act to give a man an allowance if he is unemployed.

There are a number of men who are getting \$40 a month for themselves and their wives, in whose cases if the government had spent \$150 or so in fixing this man's mouth they would not be paying \$40 a month today.

The disability might probably disappear and he would no longer be permanently unemployable and, therefore, the government would have saved \$40 a month which they are paying him under the burnt-out bill.

*By the Chairman:*

Q. Do you suggest we have a review of all the mouths among the war veterans?—A. Not at all.

[Captain E. Browne-Wilkinson.]

Q. You would get into an awful lot of trouble?—A. I am not suggesting that. This is purely a business proposition that might be taken up. If a man comes up under the War Veterans' Allowance Act and the doctor says that this man is permanently unemployed today, that he is in a run-down condition, he would certify that he is permanently unemployable.

Q. I do not think as between going to the dentist and getting \$40 a month he will do that. I think he will pass up the dentist and get the \$40, even at the government's expense. Really, I do not agree with that.—A. I am not saying that I approve of everything in these resolutions, but I have to submit them as passed by the governing body of my association. I do say this much—this is a personal matter now—I have followed on many occasions men who are pensioners and who require dental treatment, but they are not being pensioned for mouth condition, therefore, they cannot get dental treatment. They have no money of their own and if they were pensioners the government would look after their mouth condition a bit more than they do under the present regulations, and it might do a great deal toward heading off the permanent ageing of the man. That is a different aspect.

Q. Yes.—A. I do ask this committee, and especially the minister, to consider the advisability of somewhat amending the regulations under which dental treatment is given to pensioners. I think an enlargement of those provisions would be advantageous in the long run and I think would make for a saving to the government and the people of Canada.

That, Mr. Chairman and gentlemen, terminates our representations so far as the resolutions of our convention are concerned. We now come to P.C. 91, found on page 5.

The CHAIRMAN: Perhaps it would be better if we did not discuss that just now until the members have received copy of P.C. 91. You are going on on Monday anyway. Perhaps you could go on now with something else.

WITNESS: I will turn to page 9 and deal with phase 3 of my presentation, "Amendments Soldiers' Insurance Act." I will read the resolution:—

That provision should be made whereby any policy holders under the Returned Soldiers' Insurance Act who has, within the last five years, surrendered his policy, or allowed the same to lapse for non-payment of premiums, should be permitted to secure a new policy under this act, on payment of premiums properly payable at his present age, and subject to the conditions as to health as in the act provided.

In this regard I pointed out that that resolution was passed two years ago, approximately, so that it would be during the last six or seven years rather than the last five years. Our representations on that point are as follows:—

The last day for taking out a policy under the Soldiers' Insurance Act was August 31, 1933, and there are quite a considerable number of men in Canada who had to drop their policies—

Mr. MUTCH: Could you find out how many?

WITNESS: That could be found out by calling the departmental officials.

I believe quite a number of them fortunately have been able to re-establish themselves and are again in a position to take advantage of the act, probably a few years older, but today still in good health, and we ask that these men may be permitted to re-apply.

Numbers of these policy holders may be again able to take out a policy under the act, and if permission is granted they will pay the



premium as at their present age and not as at the time they took out the original policy, subject to the ordinary conditions that they are in a reasonable state of health. If a man is on his death bed they will not issue a policy.

gave up his insurance policy three or four years ago there is a provision to-day that up to five years, I think it is, he can take up his policy.

Mr. MACDONALD: Is that correct? Up to five years?

The WITNESS: Yes; but he would have to pay the back premiums with interest. You can take a man who had taken a thousand dollars out, he could afford to pay five year premiums with interest, but another man may not have that amount available.

Mr. HAMILTON: Is that on condition that he can show that his health has not changed?

The WITNESS: Yes, that is true, subject to the condition of his health. I am suggesting that his premium was \$30 a year at the day he first took his policy out. To-day he is many years older and his premiums might even be \$35 a year, but he would be much more able to pay the premium for his present age of \$35 a year than to try to pay a whole lot of years and continue his premium of \$30. We are not asking that this act be opened to everybody, but we do say that the ex-service men of Canada who got behind in the scheme should have consideration. A large number of them took out policies, and unfortunately a large number had to give them up, just as many of us have had to give up ordinary policies because of financial condition. But to-day they have a job back, and they want to come back and make provision. We are asking that those fellows who took advantage of the Insurance Act in the first place be given a chance to come back with the other policy holders.

Mr. MACDONALD: I understand that these policies if they are allowed to lapse carry themselves for a certain number of years.

The WITNESS: I believe that is correct.

Mr. MUTCH: If they do not borrow on them.

The WITNESS: Probably you could get the particulars as to the act much better from the departmental officials.

The CHAIRMAN: If you will turn to page 15 of the annual report of the Department of Pensions and National Health you will find something on this. May I say that returned soldiers' insurance is operated by the Finance Department, but we refer to it in the report of the Department of Pensions. On page 16 they give statistics—not very many—but they do say, "there has been some decrease in the number of policies which have been surrendered for cash. In the years 1933-34 1,411 policies were surrendered for cash. The death claims were 268 as compared with 266 in the previous year. 33 claims were granted under the section of the statute which provides that disability benefit is granted where the insured becomes totally disabled. 15 of the disability benefits previously in force were discontinued through death and other causes and on March 31, 1935, 90 disability benefits were in force.

At the end of the previous year there were 28,240 policies in force being a total insurance value of \$61,069,009.10. March 31, 1935, the total insurance in force was 26,933 policies for an insurance value of \$57,903,582.85. There has therefore been a decrease of insurance in force of 1,307 policies for an insurance value of \$3,165,426.25."

If you take away from that 1,307 the 268 death claims which were paid you find that they drop, say, about 1,000 in that year which, I suggest, when compared to policies in other companies, would not be a very heavy matter.

Mr. MUTCH: 1,000 in 1933 would not be very high.

[Captain E. Browne-Wilkinson.]

The CHAIRMAN: It would not be very high; but I gather that during those years in ordinary line companies there was an extraordinarily large number of cancellations, and I would think ours is standing up fairly well as compared with those companies.

The WITNESS: The fellows, I know, appreciate the value of the Soldiers' Insurance Act. I am only asking that those fellows who, in the past, showed their appreciation by taking out insurance and who by reason of financial troubles had to drop it—

The CHAIRMAN: There are 26,000 of them in it now.

Mr. MACDONALD: I can speak personally of this. I do not know whether I am in it or not. I have two policies of insurance, one with a private company and one with the soldiers' insurance and on both of them the premiums were allowed to lapse. In the case of the private company not long ago I sent them a check which they applied on my back unpaid premium. At the same time I sent a cheque to the Receiver-General for the returned soldiers' insurance and I got a letter back saying that I should send another cheque—it was for a substantial amount. The first one was no good. That is to say, it was not good as far as the Receiver-General was concerned. On the one hand they apply it on the back premiums, but in the case of soldiers' insurance I had to pay the whole thing up. In a private company I could pay half of it.

Mr. HAMILTON: You have to give a health certificate too.

Mr. MACDONALD: Yes. I do not know why with a private company I am permitted to pay something on the back premiums to keep it going, but with the returned soldiers' insurance I can not.

Mr. MUTCH: In one case you are paying a higher premium.

Mr. BETTS: That is the point. There are certain compensation advantages in returned soldiers' insurance.

Mr. MUTCH: Any policy which has continued for a certain length of time will carry itself for some time. Once you get past that time you are out of luck.

Mr. MACDONALD: Under the Soldiers' Insurance Act it does carry itself, apparently, for a certain number of years, but you cannot reinstate it, apparently, unless you pay the whole thing up.

WITNESS: Yes, that is right.

Mr. Chairman and gentlemen, the suggestion is before you, and I hope you will give it some consideration when you come to that point in your deliberations.

I will now refer to section 4 which deals with amendments to the War Veterans' Allowance Act. The resolution we have in that regard, as passed by the convention, is that the age limit be reduced from 60 to 50 years:—

In cases where a married recipient and his wife do not reside together and there are children under the specified ages in the Pension Act, dependent upon them, an allowance in addition to that paid the pensioner, shall be paid for the maintenance of the children at the discretion of the committee.

With regard to the third paragraph, I think provision has already been made for it in bill 27, and I will not deal with it. I will read it, however:—

That in cases where the recipient of the allowance has been admitted to a military hospital as a class 2 patient, or other institution, the allowance shall not cease, but if there is a wife, she shall continue to receive her allowance; if there are one or more dependents, the allowance to the pensioner shall be continued to permit of the maintenance of the home and the cost of the hospitalization of the said patient shall be borne by the government of Canada; and that similarly in the case of a pensioner committed to prison the committee shall have discretion.

As a matter of fact I think your committee do exercise that discretion even now.

In regard to section 1, it urges that the age shall be reduced from 60 to 50 so as to take the ageing veteran off the active labour market and very often out of competition with his own sons and daughters.

I want to deal with that later when we are dealing with the Hyndman report.

Now, with regard to the second portion of it where the recipient and his wife do not reside together and there are children under the specified ages in the Pension Act, the act provides that where the father and mother are separated and there are children, and the children remain with the father, the allowance is paid; if they go to the mother it is not paid, and very often the man is a physical disability to start off with. He may be permanently unemployable and the wife is of highly undesirable character to have the children and he has to put the children somewhere else; yet, under the present act there is no possibility of his getting the additional allowance he would receive if the children had remained with him. We suggest in cases of that description that authority be given to the War Veterans' Allowance committee to give that additional allowance for a time as though they were living with the father.

Sir EUGENE Fiset: Have they not got the right to do it?

WITNESS: They have not at the present time, sir. It would mean an amendment to the bill—certain amendments to bill 27 will be suggested. The bill at present assists those same children if they stay, and the father would get the \$20 a month. It will be easy for you, Mr. Chairman and gentlemen, to visualize conditions where the father would not be physically able to look after these minor children and where his mother or some other lady or some friends might look after those children. I presume some form of relief would have to be arranged. We ask that the \$20 a month which they get if they stay with the father be paid if they live with friends who would look after their upbringing. I leave the suggestion with you for your consideration.

The last paragraph I will deal with is a short one but I consider it a very important one. It deals with Imperial Veterans and is on page 10 of my brief. It reads as follows:—

That the government of Canada be requested to enact legislation with the object of putting the Imperial Veterans resident in Canada on or before the date of such legislation upon the same footing as members of the Canadian forces in respect to:

- (a) Pension
- (b) Allowances, including those under the W.V.A. Act.
- (c) Hospitalization
- (d) Facilities for adjustment and adjudication.

And that to that end a joint commission to be established of representatives of the government of Canada and the government of Great Britain to inquire and to report."

On the opposite page we say:—

"Whilst it is recognized that the Dominion of Canada may not be able to afford the full expense of putting on the same basis as those Canadian ex-service men, those Imperials who came into Canada for the first time after the war, still, we are appreciative of the manifold disadvantages under which those Imperials are existing in Canada to-day, and suggest that a joint commission, representative of the governments of Great Britain and Canada, may be able to do much to alleviate their sufferings."

[Captain E. Browne-Wilkinson.]



*By Mr. Reid:*

Q. Would you take within the scope of that Australia and New Zealand?—A. Mr. Chairman and gentlemen, I am not suggesting what scope you should keep within; I am suggesting that the joint commission might find a solution to help the fellows who fought side by side with us overseas and have come out here to help build up Canada and whose children are becoming first-class citizens of Canada. It may be that that joint commission may find some way not directly through the Pension Act but by allocating sums for immigration purposes on one side and emigration purposes on the other—sums of money which would be available for this purpose.

*By Mr. Thorson:*

Q. What about returned soldiers of our allied troops who have since become Canadians?—A. Mr. Chairman, I am dealing with Imperials to start off with. You might go further if you want to, but if I could get the Imperial ex-service men considered first I would have done what I was instructed to do by my convention.

*By Sir Eugene Fiset:*

Q. When you say Imperial veterans do you mean Imperial pensioners?—A. Yes.

Q. They receive a pension from the Imperial government?—A. Yes.

Q. In what way can we possibly interfere?—A. Mr. Chairman, you will appreciate that a man who lived in Canada prior to his enlistment and served with the Imperials, when he came back here, although his service was with the Imperials, he is placed on Canadian rates of pension; but for the Imperial who came to Canada afterward and is helping to build up our nation, and his children are probably born here, the rates of pension in the old country are very much lower and the facilities for procuring pension are very much less.

MR. THORSON: One person was a man to whom this country gave a pledge and the other was not.

WITNESS: Entirely. Mr. Chairman and gentlemen, I am not suggesting for a second that these Imperials should have the same claim on the people of Canada as those Canadian citizens who fought with the Imperials. However, I am bringing it to your attention, although you may not recognize it as I do and as my associates do, that there is a problem so far as the man who served with the Imperials and then came out to Canada are concerned. He is here to-day, his children are here and his children are making first-class citizens of Canada. We need that man. This resolution does not say that these Imperials shall be everlastingly placed on an equal basis; we say those who are here prior to the passing of this legislation.

*By Mr. Reid:*

Q. When was this resolution passed?—A. At the 1934 convention.

Q. Is it not a fact that that matter has been brought more up to date—the Imperial Veterans' Association?—A. How do you mean? The Army and Navy Veterans are only one of the divisions of the Canadian Veterans; we are all part and parcel of the same army of ex-service men.

Q. My information is that there are Imperial Veterans' Associations—I have one in my own constituency—they are asking for further consideration?—A. That may be so. For instance, as a matter of fact there is in the Canadian Legion the Imperial division of the Canadian Legion. In my own association, in various places, we have what we call the Imperial company of a particular unit.

*By Sir Eugene Fiset:*

Q. I suppose you do realize that the same condition applies exactly to those veterans of the South African war whose pensions are paid at the present time by the Imperial government. A.—Yes. We have the Imperial company, the South Africans, the Riel rebellion and the European or late war companies of the Winnipeg units.

Mr. Chairman and gentlemen, I fully appreciate that this is a very large subject. I am not suggesting for a moment that it is a subject with which this committee could in any way really comprehensively deal. Our suggestion is that the problem be recognized, that it is there, that it be recognized; and that at least we ask this committee to include a reference to it in its report.

*By the Chairman:*

Q. To the British government?—A. No, no.

Q. Your suggestion here is that we have a joint commission with the British government?—A. We recommend to the government of Canada that they take the question up with the British government with a view to having a joint committee appointed.

The CHAIRMAN: The British government would have a word to say about that. They would not pay much attention to us.

*By Mr. Thorson:*

Q. What about our pensioners who are residing overseas, say in any place outside of Canada—the United States, England, France, Australia or South Africa?—A. Now Mr. Chairman, I am dealing with just one phase of the matter. I am merely trying to put forward a word to help the Imperial who came out here under great difficulties.

The CHAIRMAN: I don't know what you mean by this joint commission which you mention in your submission. What kind of a joint commission have you in mind? How are we going to get it? That is your resolution. Let us know how we are going to go about it.

WITNESS: Mr. Chairman, our suggestion is this, that if a joint commission could be formed, from the discussion which would take place there might develop something which would be of advantage to our Imperial comrades. Now, then, the position is this: How will the commission be appointed? Who shall form parts of the commission is not for me or my friends to say. We do submit that there is merit in the suggestion of having proper representatives of Canada discussing these problems with proper representatives of Great Britain. Perhaps when they get together they will recognize that both countries have gained; that Great Britain has gained by a large number of men who would otherwise be unemployed coming out here; we have gained by getting a class of citizens with their children who are of advantage to us as a self-governing dominion. Therefore, if we can get some help from Great Britain in keeping these people happy and comfortable and good citizens I believe our duty as ex-service men is to recommend that something along these lines should be done.

*By Mr. Hamilton:*

Q. Who pays the difference between what a Canadian who served overseas with the Imperials gets and the Canadian rate?—A. Canada does.

The CHAIRMAN: Your resolution asks the same consideration in Canada for Imperial veterans as is extended to our own men. You say, "That the government of Canada be requested to enact legislation with the object of putting Imperial veterans resident in Canada on or before the date of such legislation upon the same footing as members of the Canadian forces in respect to: (a) pension, (b) allowance including those under the W.V.A. Act, (c) hospital-  
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ization, (d) facilities for adjustment and adjudication". In other words that would be placing them in exactly the same position as our own Canadian soldiers. And then it goes further: "And that to that end a joint commission be established of representatives of the government of Canada and of the government of Great Britain to enquire and report". I don't know why you want a joint commission if we are to take them all away from Great Britain's responsibility.

*By Mr. Thorson:*

Q. Would not that involve a statement by you that Canada treats her veterans better than they do?—A. There is no doubt about that.

Mr. MUTCH: That is, in dollars and cents.

WITNESS: The rate of pension is higher.

Mr. THORSON: And, the rights of pensionability are greater.

WITNESS: Perhaps the resolution itself is not in the proper order. The second portion of the resolution should really have come first; that you should arrange for a joint commission so that there might be a discussion of common problems between the representatives of the respective governments. Out of those discussions something might come whereby the government of Canada might put itself in a position to enact legislation placing the Imperials on the same basis as the Canadians. That is the purport of the resolution. In other words, you do not need to enact any legislation until after the discussions have been held.

Mr. THORSON: Mr. Chairman, what is our attitude towards Canadians who served with the French forces, how do we treat them?

The CHAIRMAN: I think, if they were resident in Canada prior to the war we do something for them, providing they were British subjects. I think you remember the case of a man who came before us who had been resident in Canada and who had a French pension. After the man became naturalized here he lost his pension from the French government, because of becoming naturalized here or for some reason or other. We could not give him a Canadian pension and he was just out of luck.

Mr. THORSON: There must have been quite a number of persons who became Canadians by domicile at any rate, even if they did not become naturalized Canadians, who served with French forces.

The CHAIRMAN: I think we bring their pensions up to our levels if they were resident here prior to the war. This last resolution I think deals with people who have come here since the war.

WITNESS: That is right.

The CHAIRMAN: Shall we adjourn until Monday morning at 11 o'clock?

Some hon. MEMBERS: Agreed.

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The committee adjourned at 1:05 p.m. to meet again on Monday, April 27th, 1936, at 11 o'clock a.m.











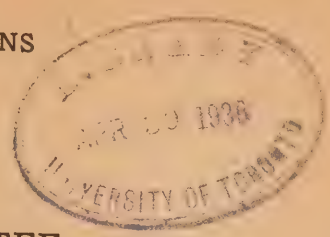
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Canada, Pension and Returned Soldiers  
Problems, Special Committee, 1936

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SESSION 1936

HOUSE OF COMMONS



SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 9

MONDAY, APRIL 27, 1936

WITNESS:

Captain E. Browne-Wilkinson, Chairman of the Dominion Legislative  
Committee, Army and Navy Veterans of Canada.

OTTAWA  
J. O. PATENAUDE, I.S.O.  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1936



## MINUTES OF PROCEEDINGS

MONDAY, April 27, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11.00 o'clock, a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs Beaubier, Betts, Brooks, Emmerson, Green, Hartigan, Isnor, Lapointe (*Matapedia-Matane*), Macdonald (*Brantford City*), MacLean (*Prince*), MacNeil, McLean (*Melfort*), Mutch, Power, Reid, Streight and Thorson.—17.

Captain E. Browne-Wilkinson, Chairman of the Dominion Legislative Committee, Army and Navy Veterans in Canada, was recalled, examined and retired.

The Committee adjourned at 12.50 o'clock, p.m. to meet again at 11.00 o'clock, a.m. Tuesday, April 28th.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

April 27, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman presided.

The CHAIRMAN: If the witness will come forward, we shall begin.

CAPTAIN E. BROWNE-WILKINSON, recalled.

WITNESS: Mr. Chairman and gentlemen, before I proceed with P.C. 91, I want for a moment to refer back to resolution 5, opposite page 3. That was dealing with section 21, in connection with certain marriage cases, where the man had married all in good faith and the marriage was afterwards found to be invalid. A typical case, and I think one of the best that has come to my attention, may I say, is No. 6, which for a preference I will describe as J.G.H.R.

*By the Chairman:*

Q. Did you check up on your statement?—A. I did.

Q. This resolution opposite page 3 asks that the commission award pensions under the meritorious section. Is the commission awarding them?—A. It is, some, yes.

Q. It is, some?—A. Yes.

Q. And the commission has failed to make the award to others, has it?—A. I think most of these awards were made prior to certain decisions of the appeal court. I have reason to believe that an amendment along these lines would be of use to the commission.

Q. A special amendment for marriage cases?—A. Yes. Especially in view of the fact that there is a question about that meritorious service section. You said you had a doubt in your mind, sir.

Q. Your statement is that we should introduce legislation in the act covering marriage cases. Is that it?—A. Yes.

Q. Are you aware that nearly all the marriage cases have been dealt with?—A. Yes, I am. But I say that to certain cases, such as this one, I believe section 21 should be distinctly made applicable; and for that purpose I am referring to this particular case.

Q. I do not quite get what you want. Have you any doubt in your mind as to whether section 21 can be made to cover all cases?—A. I think it could be read into it, but it has not been read into it at the present time.

Q. Because it has not been read into one case that you know of?—A. I know of several cases it has not been read into.

Q. I know of a thousand. But I mean, you want to enlarge it because it has not been read into this particular case?—A. This particular case, this type.

Q. How do you want to enlarge it?—A. Along the lines I have stated here. Where the man had married in good faith, it clearly should be stated there that the commission has discretionary powers to grant an allowance for the lady he thought was his wife and who has been the mother of his children, and who is looking after him, as in this particular case, where he is 80 per cent a disabled man.

Q. As far as I am concerned, we have got to get on a little bit with this evidence. Your statement is that we should specifically and specially alter section 21, to deal with marriage cases; is that it?—A. Yes.

Q. I think every member of the committee knows what is meant by that. I do not think we need any discussion about it.—A. It was just the extra case and I have given the full reference.

Q. I think it would be better if we got on with the evidence as much as we can, because I think every member of the committee can fully understand what the submission is. Personally I would be opposed—I do not mind amending section 21, but if we start to amend it for every case that is brought to us, we will never get through with this act. We will build a new act. Will you go on with your statement, please?—A. The next one is P.C. 91. We first of all deal with page 1, clause 1 (i) in which the wording is: "improper conduct or misconduct" includes wilful disobedience of orders and vicious or criminal conduct during or subsequent to military service. It is noted here that that wording "subsequent to military service" does not appear either in the present Pensions Act or in the amended bill 26. We submit that it is very wide at the present time, that any misconduct subsequent to military service shall be sufficient excuse for cutting off hospital allowances.

*By Mr. MacNeil:*

Q. What page are you reading from?—A. That is on page 5 of the brief. We note that the word "subsequent" in the third line hereof is not included in the "interpretation" clause 2 (h) of the Pensions Act, and suggest that further explanatory remarks are required if this word is to be retained. I go further than the note. I say it is not only not in clause 2 (h) of the Pensions Act, but also that word does not occur in Bill 26, which specifically deals with improper conduct. I do not think there is anything further to say on that. I am just wondering why that word "subsequent" is inserted just in these regulations when it does not, on any occasion, occur in the Pensions Act.

The next one is on page 2, and is dealing with class 1. We have a statement made that it must be for "active remedial treatment" only. We feel that those words "active remedial" are restrictive words, and we feel that there are many, many cases where a man comes in to whom, quite clearly, the treatment in itself can be of no use. His case is almost too hopeless. But palliative treatment is given and should be given. With these restrictive words "active remedial" in, we believe that these class 1 men, in many cases, will be refused the treatment which they require. We suggest that these words "active remedial" be deleted and the old word "treatment" be retained.

Mr. REID: Might I ask, Mr. Chairman, if those are the regulations that have been cut out, in P.C. 91?

The CHAIRMAN: P.C. 91 contains the new regulations.

WITNESS: That is just the point, Mr. Chairman and gentlemen. Under the old regulations the wording was "treatment," and now these restrictive words "active remedial," eliminating all palliative treatment, have been substituted for the word, just the single word "treatment." We feel that those restrictive words are not for the benefit of the men who require treatment. Then we come to page 3, class 2 (1), which I will also read in with page 4, class 4 (2). In both cases, for the first time, the restriction "served in a theatre of actual war" is inserted. It says that nobody can receive class 2 treatment or class 4 treatment unless they have seen service in a theatre of actual war; the actual words are "served in a theatre of actual war." It is submitted that this would apply not only to the fellows who are receiving this treatment to-day, but to those in the future; and not only to those in the future, but those who are receiving treatment to-day. It is noticeable that there is the difference of a comma which

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appears in the one section but does not in the other. There may be some slight changing in the sense. Personally, I am of the opinion that if a semicolon was there perhaps we should nearly arrive at what possibly was in the mind of the department when these instructions were drafted.

*By Mr. MacNeil:*

Q. What section?—A. Page 3, class 2. It is page 3 on P.C. 91.

Q. Where were you suggesting a change in punctuation?—A. It says, reading as it is now:—

That he is in receipt of payment of pension, or if not in receipt of payment of pension that he was awarded pension in respect of a disability attributable to service and served in a theatre of actual war.

I do not know at the present time, from that wording, whether it means that all of them had to serve in a theatre of war or only the latter people had to serve in a theatre of actual war.

Q. Are you suggesting that this is a change in policy?—A. It certainly is a change in policy. At the present time everybody is entitled to treatment as a class 2 or class 4 patient. This is restricted, apparently, only to men who had service in a theatre of actual war. Nobody else can receive class 2 treatment or enter as a class 4 patient, as I read the section at the present time.

Q. We have been assured by the department that there was no change in policy?—A. Well, there was certainly a change in the wording. If there is not a change in the policy, I am wondering why those additional words would be inserted, "served in a theatre of actual war." That applies to both those sections.

Then the next one is on page 4, class 4 (5); that is allowances for the class 4 patients. There has been a lot of dissatisfaction amongst those fellows, the class 4 patients, because though they are getting 50 cents extra a month for pocket money, they are getting \$2 a month net less for clothing. 50 cents does not go very far and \$3 does not go very far. There was, apparently, the sum of \$10 a month set aside for their comforts. \$7 of it were used throughout the year for clothing and \$3 for pocket money, car tickets, tobacco and so on. Now all they are getting is an extra 50 cents. But in getting the 50 cents they are losing \$24 a year. Some of these fellows have been class 4 patients for a very long time, and to suddenly get this \$10 a month reduced by \$2 seems to be a great hardship with them I am instructed. The next point that I have on my brief is page 5, class 4 (10). That transportation actually is available. But it was noticeable that although provision was made in that place for transportation, in this particular clause that provision was omitted. I am not going to really press that at the present time.

*By Mr. Betts:*

Q. From whom did you receive that assurance?—A. Some member of the department in Winnipeg, I forget who it was. I am not prepared to say who it was, but I did make enquiry. I would ask the committee if they would assure themselves that such is the practice; and if it is not, to see that provision is so made.

*By Mr. MacNeil:*

Q. Subsection 10 of Class 4 reads "transportation on discharge"?—A. Yes, it is transportation on discharge. It is not on admission.

Clause 5 on page 10 reads:—

A person who is an inmate of a Departmental institution or institutions at the expense of the Department shall be required to perform such duties as may be assigned to him by the Chief Medical Officer of the

district or the Hospital Superintendent, provided that his physical or mental condition will permit. If such duties are of a supervisory character and are performed in a Departmental hospital by a former member of the forces who is not in receipt of hospital allowance, the Department may, in its discretion, award a small recompense.

Our submission on that point comes under two or three headings. First of all, it is submitted that whilst a light employment might benefit a patient suffering from a nervous disability, still this Clause as at present worded might tend to make unpaid hospital orderlies and other employees out of all patients, and also confers too much arbitrary power upon the doctors and nurses, especially in view of the definition 1 (i). That is, wilful disobedience of orders subsequent to service. Here is a case where they say there is wilful disobedience of an order to scrub a floor, or something else. As I will deal later with this same phase, there is no provision made so that this man may appeal against the orders of any doctor or superintendent or person in authority.

*By Mr. Reid:*

Q. That could hardly arise, because you would not consider a man employed in a supervisory capacity if he were scrubbing floors?—A. Just a moment, it does not go as far as that. It says anybody may be instructed to perform light duties. I will deal with the two different classes, whether you are superintending or scrubbing floors. This states, "shall be required to perform such duties as may be assigned to him." That will cover anything. It might apply, if he were an electrician, to the fixing of lights. A man may be a carpenter and be told to repair furniture.

*By Mr. MacNeil:*

Q. Have you any evidence of any hardships in that regard?—A. I have not, Mr. MacNeil, as to any hardships, but I say the section as at present worked is too wide. I suggest it needs to recognize the personal element. All the doctors and all the superintendents are not built the same way, and sometimes they get very short-tempered, and so on. Possibly the actions of some of the men cause it. But this does give power to those in authority to order a patient to do work, and on a refusal to do that work disciplinary measures may be inflicted without any redress on the part of the man.

*By Mr. Green:*

Q. Is it your idea that the men should not be asked to work, or that there should not be discrimination between the supervisor and the man who is doing the work?—A. I would say, in the first place, that the men in most cases should not be required to work. I would say definitely in most cases the men should not be required to work.

Q. You do not think there should be any power given to the doctors or nurses to ask the men to work?—A. Not unless, I would say, it was part of the remedial treatment. I am not a doctor, but I understand that if a man is a neurasthenic patient some kind of light work to take his mind off himself is at times advantageous. In the case of a man who went into an ordinary hospital with a war disability he would not be told by the hospital authorities to scrub floors or repair beds or do any work around the place. He is in there as a patient, and rest is part of the cure for which he pays. After all, as far as a military hospital is concerned, the man has paid. He has paid by his service, and the country now is just paying back for his service overseas.

*By Mr. Reid:*

Q. It might be a fact that he might be detained in a mental hospital?—A. I agree. But this gives all too wide a power to hospital officials without any

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redress on the part of the man. If a man says, "I am not going to do it; I do not feel well enough to do it," and some hospital superintendent or doctor says, "you will do it, or if you do not do it all your hospital allowances will be cut off"; then the man has no appeal.

*By Mr. Green:*

Q. Have you ever had cases of that kind?—A. No, I have not.

*By Mr. Hartigan:*

Q. This authority is only given to the superintendent and the chief medical officer, it is not given to doctors and nurses?—A. No, no, the chief medical officer.

Q. Then the department would always be available for redress?—A. I daresay.

*By Mr. McLean:*

Q. Do you not think that if there were any real objection we would have heard about it after all these years?—A. This is a new regulation.

The CHAIRMAN: No, it is a rewording of the old one. I noticed myself while in Calgary that they had a man operating an elevator. He was a patient, and they said he was getting along fine. I suppose if we had not had that authority we would not have been able to put him to work operating the elevator.

WITNESS: That brings me to the second point. It states here, "a patient performing duties of a supervisory character may receive some slight compensation." But it does not say the man doing the actual work will get it. In the case of four patients who may be doing some manual work, such as cleaning the snow away, one man may be told to look after them in a supervisory capacity. I say there is provision made so that the man supervising may receive pay. Because it stipulates that he shall receive pay; presumably it infers that the others shall not.

*By the Chairman:*

Q. I would think they should be able to arrange to clean up their rooms and do things of that kind?—A. I would think so.

Q. I imagine, for the sake of good order and discipline, it would be just as well if they more or less did the policing of their rooms. I think they have some arrangement of that kind?—A. Mr. Chairman, a lot of this is not advisable. But I am saying that the powers are very wide, and I was instructed to bring this to the attention of the committee.

*By Mr. MacDonald:*

Q. What is your suggestion?—A. I have no suggestion. I want an explanation as to why the words "supervisory character" are inserted.

The CHAIRMAN: We would not want to pay those men for just looking after their own rooms, particularly when they are patients.

Mr. HARTIGAN: It gives the department wider latitude to employ ex-service men in the hospitals. If you took out the words "supervisory character," you might be doing somebody out of a chance to get remunerative employment in charge of the records, or such like employment.

The CHAIRMAN: The only real objection to this possibly might come from outside; that you might employ a full-time man for doing the work of operating an elevator, such as I have in mind. That perhaps would be a stronger objection than any other.

Mr. HARTIGAN: Absolutely. You can visualize where a returned man would have a good chance of getting employment in these hospitals.



WITNESS: This section, of course, only deals with the patients. What I am asking is why they should stipulate that only the man doing supervisory work shall receive pay. After all, it is not mandatory. It says a man doing supervisory work may receive some compensation. In the case of a man doing a lot of work, he also may receive something, but it does not say the man doing the actual work may receive anything. It stipulates the class of person who may receive it.

I will not labour that any more. That is a point which I think should be brought to the attention of the committee.

*By Mr. Hartigan:*

Q. In civilian hospitals it often happens that where a patient has been taken on it is found that he is suited to a particular line of work and the hospital will retain his services. By the same token, why should not the returned man have the same opportunity, if he has certain abilities that could be used by the hospital, and be given a permanent job?—A. I am entirely in sympathy with that suggestion. But I would like to see the words “supervisory character” eliminated, and just say that slight compensation may be available for such work. You are limiting it to the man doing the work of a supervisory character. That is my main objection to it. You need not pay them all the time, but there should be authority for making some slight compensation, in the discretion of the chief medical officer or superintendent.

Q. The objection holds there; that the man put in charge of records or admissions and discharges, if he proved himself quite competent to look after that work, any clerk could come in, who was a patient, or probably another clerk could come in and take his position. Whereas the man who had organized the system and proven himself worthy does not get on but would simply be entitled to appointment. You would not have the same rule applying to him as you would to a man who has gone there permanently.—A. Of course, I do not visualize this paragraph as covering the men permanently employed. It deals with a man who is in there for treatment—a patient.

The next point I want to deal with is on page 14, Clause 15 (10). The statement is:

The additional allowance for a dependent is maximum.

Here we refer back to page 1 of the order in council, and we note for the first time that dependents includes a wife. It states here:—

The additional allowance for a dependent is maximum; a lesser allowance may be awarded, in the discretion of the Department.

It is submitted that the provision herein contained is an entirely new departure in that never before has there been any suggestion but that the dependent, under normal circumstances, should get the full allowance. If this paragraph is only supposed to apply to the case where the husband and wife are separated, it should so state; but as at present worded, it is submitted, it might be applied to the family of a man who are actually living with him. Mr. Chairman, the wording there is very, very wide.

*By Mr. Betts:*

Q. What does additional allowance mean? I do not understand the paragraph.—A. I understand additional allowance is the allowance a man gets if he goes to a hospital, and a single man gets so much according to his rank. Additional allowances are for the dependents which, under P.C. 91 includes the wife and children, father and mother, brothers, sisters, and so on, all of those for whom he was receiving additional pension before he went to hospital.

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We submit that that wording may be construed very widely. Under normal circumstances, the wife would be receiving \$80, and somebody in the Department may say, "she has a private income, and all she should receive would be about \$30". It gives discretion as to how much additional hospital allowance the dependents should receive.

Q. Where do you touch that in your brief?—A. At page 8.

*By Mr. McNeil:*

Q. That should apply only to cases of separation?—A. I am not saying where it should apply, but I want to know what was in the minds of the people who drafted it and passed it when these words were inserted. Perhaps I am looking for trouble, but I want to know exactly what I am approving on behalf of my association. It seems to me that those words are very wide. It gives a much wider discretion than is possibly intended.

*By the Chairman:*

Q. If you said you want to know what you are disapproving of, it would be better. You say you want to know what you are approving of. If I turned it the other way I would say, what are you disapproving of?—A. I am disapproving of what I consider a new provision and a new departure entirely when it says, "the additional allowance for a dependent is maximum."

Q. You are afraid of what is new because it is new. You are not very progressive?—A. Perhaps that is so, but I would like to know, when you are limiting the allowance, why you say it shall be considered as a maximum only, and I would like an explanation as to when or under what condition it shall be less than the maximum? If there is to be something less than the maximum, as at present, under what condition will it be less than the maximum? I think the ex-servicemen and the people of Canada, especially this committee, should know. I do not know whether any explanation will be given now, but that is certainly a point which we feel should be explained.

Mr. GREEN: Who would exercise that discretion?

The CHAIRMAN: The Department.

Mr. GREEN: Would it be an official at Vancouver or Ottawa?

The CHAIRMAN: I imagine it would be the pay branch of the Department. The official would make a report on it.

Mr. GREEN: It would be done from Ottawa?

The CHAIRMAN: Likely.

WITNESS: Here again we would like to know if it is intended that the man's private income should be taken into consideration when something less than the maximum allowance as at present arranged would be granted?

The CHAIRMAN: If ever that is done, we will hear about it, you may be sure. There is a scale of pay and allowances, and you know very well that if we started to enquire into the living circumstances of people, we would have done it long ago, and the question of Generals who were drawing \$700 would come up.

WITNESS: That is correct, sir, but I am submitting that the reason we are asking this now is because we have never seen that occur in the regulations before, and because it would suddenly turn up and cause reductions in certain hospitals allowances. So far as I am concerned, we feel that now is the time to ask the question because it will be a year, at least, before we have a chance of asking it again, and a lot of autocratic reductions in additional allowances may have been made during that particular period of twelve months.

The next point is on page 7 of the brief. It appears on page 14, clause 15 (9) of P.C. 91. It reads as follows:—

If a former member of the forces is not living with and/or is not fully maintaining his dependant or dependants, he shall be awarded the

hospital allowance applicable to a man without dependants, but if he was contributing towards the maintenance of such dependant or dependants, when treatment commenced, the Department may award an additional allowance not exceeding one half of his monthly contribution or the additional allowance provided in the schedule whichever is the lesser. From the total amount so awarded the Department may pay to the dependant or dependants such amount as may be deemed necessary, not exceeding, unless the man so requests, the amount of the said contribution.

In this regard it is submitted that there are many cases where the provision contained in this paragraph would work unnecessary hardship upon the dependent as in the case of a wife who, having been deserted by the ex-serviceman, had obtained an Order of the Court against him for support of, say, \$25 per month. Under the old regulations, the wife would have received the man's full hospital allowance, less twenty dollars per month; under the new regulations, although she was an innocent party, her support would be reduced to \$12.50 per month. There may be cases where the new provision would be justified, but it is submitted that with its present wording, it is entirely all too inclusive.

I again stress that point. A man may have deserted his wife or through his actions forced her to leave him and she has obtained an order from the court for a judicial separation, possibly allowing her custody of the children as well, and an allowance of some substantial portion of his income. Under the old regulation when he went into hospital she drew his additional allowance as a wife of \$80 a month for herself, plus an allowance for the children. Under these new regulations instead of her getting \$80 a month, even though she was the injured party and even though she had a court order against him, instead of getting \$80 per month she would only get one half of what she was ordered to receive by the court. And we submit that possibly that was not the intention when this section was drafted. That is only one of the many cases. We cannot understand it. A man who is supporting his wife and they were, even voluntarily, separated. There may be very good reasons for the separation. They were living apart and he was voluntarily paying her an allowance, and she was receiving her portion of the pension, and the additional pension. Why then under this new regulation should she be brought to half what she should receive when he is out of hospital. Her living expenses presumably would be exactly the same.

*By the Chairman:*

Q. I might point out in that connection that we did not contract with the wife, we contracted with the man?—A. There are many cases in which the wife has been struggling for years to keep the home together even when the man was in hospital, or where the man because of his war disabilities and through no fault of hers has made living conditions in the home absolutely unbearable for her and the children; as a matter of fact there have been cases where she had to, as a matter of self-preservation for both herself and her children, leave him. Those are extreme cases, it is true; but she had to leave him and the department recognized that she had to leave him because they continued to pay her separate from him her portion of the allowance and part of his pension. And yet, here there is some new provision made, they are going to cut half the allowance down. That is a very drastic cut. She still has to look after herself and possibly the children. Yet, for some reason or other, instead of her getting more when he enters hospital she is only to get half. I do feel that this is a matter into which your committee might inquire. I think some explanation of the situation should be given. I do not see the reason for it myself. Some explanation should be available and possibly the minister will agree to a change in the wording of

[Captain E. Browne-Wilkinson.]



the Act to cover these cases of hardship which I can certainly visualize under the wording of the Act as it is at present.

Mr. BETTS: Could the chairman tell us how that clause arose?

The CHAIRMAN: If we start explaining each one of these we will never be able to get through; but I think when the time comes if the committee want a full explanation we will call officers of the department who will be able to tell them the whole story. My own idea is that these complaints should be laid before this committee and when we have heard them all if there is an necessity for any amendments we will be very glad to make them.

WITNESS: Now, on page 13, clause 15 (1). The wording is: "A payment of hospital allowance may at the discretion of the department be made in the following manner, in arrears, during hospital treatment:

To or on behalf of a man not exceeding \$10 per month;

To or on behalf of dependents, nor exceeding total allowance awarded in respect of man and dependents less \$20 per month; provided that the department may pay a larger or smaller proportion on behalf of the man or to or on behalf of the dependents of the man if deemed advisable."

In that regard it would be noted that under the old regulations a man got \$20 a month, and the wife the balance, namely \$80. Now, she is still receiving her \$80 a month; and the man is to receive \$10, and \$10 is to be held for him. It is felt that there are a number of cases where a man should still be allowed to draw the full \$20.

Mr. MACDONALD: Isn't that in the provision at the end?

The CHAIRMAN: That is to provide for its being given to him afterwards. It is a question of our experience in the hospitals; that is, whether he should have the \$20 a month altogether to play around with, or only \$10.

Mr. MACDONALD: Does not that provision permit of the department's paying more to the man while he is in hospital?

The CHAIRMAN: No. In most cases he was getting \$20 and spending \$20.

WITNESS: That would be all right where he has dependants, but where he is a single man and dies in hospital that just goes back to the government.

The CHAIRMAN: Yes.

WITNESS: And he never has the advantage of that other \$10.

*By Mr. Mutch:*

Q. You are not suggesting that the idea of that provision is to save half of his hospital allowance?—A. I am suggesting—that is the idea, that is the result of what happens in the case of a single man.

Q. I don't imagine that when he is dead he would mind?—A. No, that is true; but before he died he might be able to buy for himself a few little luxuries which he is precluded from buying when his \$10 is withheld from him.

Captain Gilman wrote to me from St. Anne's hospital, I received his letter this morning, to ask me to bring this point to the attention of the committee, dealing with that particular section, that is P.C. 91:—

That where a patient is unable through hospitalization to provide for his family adequately because of obligations contracted prior to admission to hospital that the department shall use its discretion in paying to dependents the amount of \$10 that Order in Council has deducted from payment to the man himself as heretofore.

In other words the suggestion of Captain Gilman here is that you are only going to give a man \$10 while he is in hospital and the additional \$10 when he is discharged from hospital, that the additional \$10 might in certain cases be allowed to the family in addition to the \$80 which they would draw.

Mr. MACDONALD: I think they have that power now under the Act.

WITNESS: It seems to me that that is exactly what the Act says.

Mr. GREEN: Does that section apply to all allowances?

The CHAIRMAN: Oh, yes. We do not make any distinctions, except in the pay, in so far as these regulations relating to administration are concerned.

Mr. MACDONALD: I do not think witness has any objection to the section if it is interpreted in that way.

WITNESS: I have, in so far as it relates to that extra \$10. I think, in the case of a single man, that that might be allowed to him.

Mr. MACDONALD: To his family.

WITNESS: No, no; to the man, not to his family; to the single man, to the man who is dying there, and who feels he would like to have the use of it.

Mr. MACDONALD: It says distinctly, "to or on behalf of dependents." I think the man and the dependents are in the same position; the department can pay a larger or smaller portion. I do not think it could be much plainer.

Mr. MUTCH: It is discretionary too.

WITNESS: I took that matter up with officers of the department and found that it was only applied to the dependents. If that is the opinion of the minister and the committee here I am quite satisfied.

Mr. MACDONALD: I am just reading what it says.

The CHAIRMAN: You will not get me to give you an opinion on these regulations. I will tell you that right now. If you can tell us where to change them, and if there is a reasonable cause given for changing them, we will be glad to do so.

WITNESS: The next thing is schedule 21. There is a new departure there in the changing of hospital allowances. That is the thing which has been threshed out many many times. I must say that the arrangement was made on the definite understanding that there would be no change in the matter of pensions and they would be carried on right until death.

The CHAIRMAN: There was no understanding.

WITNESS: It has been carrying on for years and years and years. It does seem to us that some explanation is coming to quite a number of people. I don't know how many major generals there are. This thing appeared in our local papers and it dealt with certain major generals who had been in hospital. I do not think there were many of them. I am thinking of a lot of junior officers, and warrant officers and non-commissioned officers. I took the trouble to check this matter up in Winnipeg at the hospital the moment it came out. I found that there were no major generals or brigadier generals, nor were there any colonels or majors; but there were at that time eight captains, ten subalterns, four sergeant majors, thirteen sergeants and two petty officers whom this affected.

*By Mr. Macdonald:*

Q. That is in one hospital?—A. In one hospital; and so it did not affect one of these alleged major generals or brigadier generals—no field officers at all. There was in this hospital no officer above the rank of captain. It did affect eight captains, ten subalterns, thirteen sergeants, four sergeant majors and two petty officers. Many of these fellows had contracted obligations and so on as a result of drawing these allowances for many many years for their families. It was a bolt from the blue to them that these new regulations came in; and they, and I think quite rightly so, considered it a matter of contract and they had taken these obligations on.

Mr. REID: I think the rank and file rather approve of this.

WITNESS: I don't know about that. I don't think it.

[Captain E. Browne-Wilkinson.]

*By the Chairman:*

Q. Is it your submission that we should change back again?—A. I think so.

Q. Your submission is that we should change the schedules back again in so far as that may be possible?—A. I don't see exactly why it was changed, sir.

Q. Are you speaking for your association or for yourself?—A. You must remember this, that we are not the Canadian Legion. They have had an opportunity of holding a Dominion convention. Our association have not had one since this P.C. 91 came out. We have had meetings of our board of directors and the board of directors instructed me to prepare this submission for them. I will read it again:—

It is submitted that heretofore, despite considerable controversy, on this point, it has been rightly held that the hospital allowances based on the service ranks were a matter of contract, and, therefore, should not be disturbed.

*By the Chairman:*

Q. That is your submission?—A. Yes.

Q. As representing your association?—A. Yes. The last point deals with P.C. 91.

It is felt that the term "Departmental Medical Authority" which occurs frequently in this order in council, has the effect of delegating the direct responsibility of the Department and the Minister into the hands of Doctor Ross Miller and others immediately under him.

*By Mr. MacNeil:*

Q. Have you any evidence of change in practice in this regard?—A. This only came into force on the 1st of March. I have not checked it over. There must be some reason for somebody putting in "Departmental Medical Authority" instead of "Department." In our statement we say, "it is felt that the term 'Departmental Medical Authority' which occurs frequently in this order in council has the effect of delegating the direct responsibility of the Department to the head of the Medical Service and others, which, we submit, is wrong in principle." It is noted by our Dominion Board of Directors that the new regulations suggested in the acts that transfer the whole of the staff of the C.P.C. to come directly under Dr. Ross Miller are bad and in line with increasing the authority of the medical adviser. So far as we are concerned we do not like this change of staff. We feel it would be much better if the staff of the Canadian Pension Commission were to remain immediately under the control of the Chairman of the C.P.C., as I said before, and that if the new system is brought into force, whereby they are transferred back to the Department and then allocated, it should be most clearly understood that that portion of the staff then allocated to the C.P.C. shall be under the direct control of the C.P.C. as at present during such period as it is transferred or allocated, and the then medical adviser cannot come along and give a lot of instructions to the staff under the Pension Board.

Mr. HARTIGAN: I think they are taking the wrong impression in regard to this section and the Departmental Medical Authority. Under whom would it come if it does not come under the head of the medical service of the department, the Departmental Medical Authority.

Mr. MACNEIL: I think they are afraid of Dr. Ross Miller.

The CHAIRMAN: As head of the department I am supposed to run it. They say I take the word of the Departmental Medical Authority. After all the responsibility is on the Minister to run the show and if he cannot do it you will soon find out.



WITNESS: We have a lot of confidence in you but we might not have it in the other party.

The CHAIRMAN: After all, you know very well, the Minister is responsible for the officers of his department. If he does badly he gets the blame. I have no objection to their protecting me against all the big bad wolves in the department; but I ought to have sense enough to find them out myself.

WITNESS: We are trying to point them out to you, sir. The next thing I want to deal with is Bill No. 26, the new Bill. These submissions appear on page 10 of the brief. My first submission deals with the amendments in regard to improper conduct. The new wording includes the wording, "wilful self-inflicted wounding." We are in favour of the word "wilful" being so inserted, but we again direct your attention to the fact that the words "subsequent to military service" do not occur.

*By the Chairman:*

Q. We are dealing with Bill No. 26 now?—A. But it is the same section as appears in P.C. 91. P.C. 91 has the word "subsequent" in it, but you have not it in your new bill 26. The next point to which we take exception is section 3 (2) which provides that "the persons holding office as members of the appeal court at the coming into force of the amending act of 1936 shall be and are hereby appointed commissioners under this act."

Q. You have already enlarged on that?—A. Yes, I have already enlarged upon our reasons, and I reiterate them.

Mr. MACDONALD: You are going too fast for me; I cannot find where you are.

WITNESS: I am at page 10 of the brief, dealing with section 3 of the act which provides "that all members of the Pension Appeal Court shall become members of the commission." This is unsatisfactory for the reasons previously mentioned under "administration" at the beginning of my brief.

*By Mr. Emmerson:*

Q. Are you opposed to this act or are you opposed to the personnel? What is your suggestion; I want to get it clear.—A. Our suggestion—I cannot differentiate between the authority of the Dominion convention and some lesser authority. The Army and Navy veterans did not have a convention since this act came out, but we have had a meeting of the Dominion directors, and the Dominion board of directors instructed me to say they are not in favour of the amalgamation. They do not like to start off with an amalgamation of the two bodies. They do not like the system as I mentioned before, of a court in banc. But we prefer an appeal court after the court of first instance. That is the first thing. Secondly, for reasons which I outlined the other day, very very fully, we object to the personnel. We say, for reasons I explained the other day, in our opinion if there is an amalgamation of the two bodies the personnel are not likely to improve the C.P.C.

*By Mr. Mutch:*

Q. In your opinion, provided this goes the way it is and these gentlemen do go to the Canadian Pension Commission, do you fear that would continue to be the appeal section of the body, from the nature of things, and if it did continue to be would it, in your opinion, improve matters any if it went back to the position of three as it originally was, and the three sat in order to speed things up. Since Judge Taylor has gone on the Pensions Commission Appeal Court they have been sitting two at a time. I think it would improve matters if the three bodies sat—A. My personal opinion—

[Captain E. Browne-Wilkinson.]

Q. Or would it be three times as bad as it is now?—A. I must give my personal opinion. I think the three should sit, that is my personal opinion, and the opinion of the Dominion board of directors is that there should be three sitting as an appeal court, not as a portion of the C.P.C.

Q. Your opinion is things should remain as they are?—A. Yes.

Q. With the appeal court the way it is?—A. Yes, if you like; if the personnel is to remain I personally would much prefer to see them sitting as an appeal court rather than a part of the C.P.C.

*By Mr. Reid:*

Q. You do not like the personnel?—A. As individuals I like them very much. I know them all personally; but my personal opinion, for reasons which I outlined the other day, is that they do not work to the advantage of the ex-service men of Canada in any shape or form. I think their adjudications in many cases are far from correct.

*By the Chairman:*

Q. I take it you suggest we leave the act the way it is with the pension appeal court the way it is?—A. Mr. Mutch asked me a question, and if he requires an answer, in my opinion I can visualize that if they are absorbed into the C.P.C. eventually the same chairman would become the appellate division, because I know of many cases, and anybody in the room who has dealt with pension work knows that when certain of the adjudicators are travelling—not so much now as under the old tribunal system—a man would say, "If so and so is coming, I do not want my case to be heard." And I can quite visualize as a result of say, giving a dog a bad name, if certain of the members of the appeal court went on the C.P.C. and went on circuit, the ex-service men might say they did not wish to come before them. Eventually they would have to remain in Ottawa and they would automatically become again the appellate division of the C.P.C.

*By Mr. Mutch:*

Q. Is that a general fear?—A. It is one that I have voiced a lot. I cannot say it is general, because I do not know. I must be absolutely fair. I have discussed this very thoroughly with a great number of people who make an intensive study and have been making an intensive study of pension matters for a number of years. There is another point in the act to which I should like to refer. It will be found on page 3 of the act and is as follows:—

A person appointed chairman of the commission shall be a person who is or has been a judge of a superior court, or of a county or district court of any of the provinces of Canada, or a barrister or advocate of at least ten years standing at the bar of any of the said provinces.

Mr. Chairman and gentlemen I would direct your attention to the fact that if they were to procure the service of a judge of a superior court they would have to find somebody who was prepared to sacrifice at least a thousand dollars a year under normal circumstances. It is true that in the case of Mr. Justice Hyndman, because of the fact he is drawing an allowance as judge of the Appeal Court of Alberta of some \$6,000 per year, he would, if he went as chairman of the C.P.C. receive \$14,000 a year. But any King's bench judge in Canada who normally would be receiving \$9,000 a year, under this act would have to sacrifice \$1,000 a year to take over the position of chairman. Then we have the ordinary district court judge and barristers. A barrister, of course, would have to decide on his private income; but the salary of a district court judge would not exceed \$8,000 a year. We cannot get, in normal circumstances, anybody from the King's bench or the appeal divisions of the provinces to take the position as chairman. That would apply to the present acting chairman.

Q. The present acting chairman?—A. Yes. I should now like to refer to 12 (a) which deals with the limitations of period of application. So far as the man who saw service in England and Canada only, the date of application shall be the coming into force of this act, and to those who saw service in a theatre of actual war, the first day of January, 1938. In this regard the bill was published subsequent to the sitting of our last board of directors' meeting, and in order to receive instructions on this point I had to communicate with all directors and provincial commands. I do not think there is any objection at all to the idea of a final date. The point has come to me from various parts of Canada that possibly some slight notice should be given of the intention in regard to the final time for application, with regard to the men who saw service in England and Canada only. So far as the man who saw service in France and England is concerned, he has a year and a half in which to reply, and provided discretion still lies either with the appeal court or the appeal division or even the C.P.C. to entertain special application, I think probably it would be quite satisfactory to the service men as a whole.

The next section I should like to deal with is section 17, which has to do with retroactive pension. This section in regard to retroactive pension is as follows: "Pensions awarded for disabilities shall be paid to date upon which application to the commission was made, or, in the discretion of the commission, six months prior thereto, provided that in no case shall any pension be paid for any period in excess of twelve months prior to the date upon which entitlement to pension was granted."

We suggest that if there is any necessity for limiting the amount of retroactive pension paid, words to the effect "prior to the period during which the application for pension has been actively pressed" might be considered.

Q. What part of your brief is that?—A. I am reading from page 11 of my brief. Whilst I appreciate and I know my association appreciates very much the necessity of some limitation of retroactive pension, I think that listening to cases advanced by other witnesses and some I have submitted myself, there would be cases where very considerable hardship, and unnecessary hardship would be inflicted if this twelve months' rule was adhered to. The case I gave to you the other day, R.B., is one in point. He was a married man with eight children. He received a 100 per cent award as long ago as 1931, and he has been actively pressing that every day since. It has gone back and forth. Each time he comes before the court of first instance, he receives an award; each time he gets up to the appeal court the matter is referred to Dr. Cathcart, and we wait a long time, and then it comes back. Finally the quorum gives another adjudication in his favour. Then it comes up again to the appeal court, and they promptly reverse it. It seems to me it is very unfair to a case like this that has been going on for five years. Every time he comes before the court of first instance, where they see the man, and in many cases it is a different quorum or different tribunal, they adjudicate in his favour. Now, if he finally wins out the five years, or four years, it would be five less one, would be lost to him.

*By Mr. Reid:*

Q. Is he producing new evidence all the time?

*By the Chairman:*

Q. What you want is retroactivation back to the time that the man got the first judgment in his favour. Would that be satisfactory to you?—A. I think it would be fairer.

Q. I think it is quite fair, also, if he got a decision before one of the courts and it is taken away from him. We ought to be able to draft some

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amendment that would at least confirm the earlier decision, if it was in his favour. If the appeal court awarded him a pension that had not been granted by the quorum, perhaps we might date it back to the hearing of the court. If we can draft that, it seems to me that it is reasonable.

Mr. MULCH: We have already promised to consider that.

The CHAIRMAN: Yes.

WITNESS: I would appreciate it very much if you would.

The CHAIRMAN: If a man is turned down by the quorum and awarded a pension by the appeal court, it seems to me very reasonable that we should, at least, date it back to the time when he was turned down. I think that could be drafted.

WITNESS: I would appreciate it if you would.

*By the Chairman:*

Q. What is the next point?—A. That same also applies to section 37(c). I think that is the one to which you were referring.

Q. Yes?—A. I think that is dealing with the war widow. I think practically the same thing would apply in that regard.

Q. But perhaps not to the same extent?—A. Not to the same extent. But the same underlying principle might be applied.

Q. It is worth considering in that regard, 37(c)?—A. Yes. That is on page 11, or page 12, rather.

Q. You say they do do something along those lines?—A. Yes.

Q. They say, "provided always, if a decision of the appeal division is in favour of an applicant, pension may in the discretion of the commission, be paid from a date six months prior to the date on which the application for pension was refused after the coming into force of this act by a quorum of the commission?"—A. Yes.

Q. So it was intended to cover that.

Mr. MULCH: Where are you?

The CHAIRMAN: That is on page 12 of the act.

*By the Chairman:*

Q. You want something similar to that in the case of disability?—A. Yes.

Q. All right. What is the next point?—A. The next one I have here, which I have not put on my brief—

Q. I bet I know what it is—seeing the files?—A. No. It was not seeing the files. I do not worry about seeing the files. It is dealing with what somebody called automatic reference, which I agree is not automatic reference there, but reference to the quorum immediately after being turned down by the commission. I must say, Mr. Chairman and gentlemen, that in my opinion, from experience in these matters over a great many years, I think a lot of money could be saved to the country if an opportunity of going back to the commission rather than to the quorum is available. Many men come along, mainly to our adjustment bureau—and I suppose the same will apply to other adjustment bureaus—and you ask them their disability. You take them up and you get a lot of evidence, not all the evidence you really want, but you are told that the real man who has the evidence is in England or Timbuctoo or some other part, or that he has disappeared. You say, "Well, if I had this man's evidence, definitely we would cinch the case; but probably we can get along without it." And rather than let the man wait for years, I think it is the duty of the Veterans' Bureau or the adjustment services of the Veterans' Association, to endeavour, with what they appreciate is not all the evidence that should be available, but with all that is available at that time, to see if they cannot get somewhere. Then

later this other evidence may be available. Instead of going to all the expense of sending a quorum, where you have to pay possibly for the attendance, the railway fares and so on of witnesses, I should like to see just the documentary evidence which would be available sent to the C.P.C. A lot of time and a lot of money is saved. I know of cases where that has occurred, sir.

*By Mr. Betts:*

Q. What you would do, would be to give the man one opportunity to try an incomplete case, to use your own words, on the commission; and if that failed, give him one chance? That is, after that give him reference to the court?—A. Of course, we appreciate that is what we get when we go to a court of law. We do not get a trial.

Q. No?—A. It would help a lot.

*By Mr. Mulch:*

Q. Every losing case is an incomplete case?—A. I am trying to show there is possibly some merit to that.

*By Mr. Betts:*

Q. You would have, to a certain extent, finality by letting him go to the commission once and, if he is turned down, let him come again; and after that, leave it as it is now provided?—A. That would be more satisfactory to me than it is as at present worded. I would rather you asked the members of the adjustment service bureaus, either my own or the Legion's or both, if they are of that opinion.

Q. We are just trying to get your opinion now?—A. I believe that would be quite an improvement over the present suggestion.

*By Mr. Macdonald:*

Q. Is it correct that you can come back if you find new evidence?—A. Not under the new act; not under the new procedure. At the top of page 12 of this bill, this says you got to go to the quorum. Immediately you have been turned down by the C.P.C., you have got to go to the quorum. I think that is your opinion, Mr. Chairman.

Q. What section is that?—A. It is section 21, dealing with 52 of the act.

*By the Chairman:*

Q. You can always get cases reopened by appeal, on submission of new evidence, if you have been turned down at first?—A. Yes.

Mr. MACDONALD: Reading the act, I find:—

Whenever any application for pension is not granted, the commission shall promptly notify the applicant, in writing, of its decision, stating fully the grounds therefor; and shall inform such applicant that he may, within the period of ninety days after the date of such notification, inform the commission of his intention to renew his application with or without additional evidence.

WITNESS: Before a quorum of the commission.

*By Mr. Reid:*

Q. Is there not a distinct advantage in appearing before a quorum of the commission, due to the fact that he can appear in person and bring witnesses?—A. Oh, yes. I do not say to cut out the quorum rights. I believe very often the matter is quicker. There is another point—I know of several instances, and possibly the adjustment service experts will agree with me—that there are times when cases have to be rushed through the commission because of the expectancy of early decease of one of the witnesses, and they rush the thing through. I think there should be some system of perpetuating evidence.

[Captain E. Browne-Wilkinson.]

*By the Chairman:*

Q. That is all new to me. What do you mean by that?—A. Like taking evidence *de benne esse*. Say a man is leaving this country, he may be going to England for good, and you have not got as far as the quorum but you want to get the man's evidence.

Q. Do you not get it now to go to the commission?—A. Yes, but his appearance in person is what I mean.

*By Mr. Mutch:*

Q. What you want is something in the nature of an examination for discovery?—A. An examination for discovery, yes, Mr. Mutch. Of course, we have a system at the present time whereby the commission may instruct the members of the quorum on tour to take down evidence for the use of the commission itself. I think there are cases where that system might be more frequently used.

*By Mr. Betts:*

Q. The machinery is there now?—A. Yes.

*By the Chairman:*

Q. I do not know that the commission, as such, has ever refused to take the evidence of a man who is going away, has it?—A. No.

Q. All the evidence before the commission is written evidence. The commission never sees the man. The commission sits here in Ottawa. As the witness points out, occasionally if they are not satisfied on some point, they ask the quorum to make enquiries, do they not?—A. That is true. My point is this; you may have, if the act remains as it is now, one appearance only before the commission.

Q. One appearance only?—A. One application. He puts in his application and there is one hearing before the commission and there is a reference to the quorum, if he so desires.

Q. That does not mean to say the commission are going to turn him down automatically. The commission will hear his case, and you can put all the evidence you want in. Do they not say that now?—A. That is true.

Q. There is no interference with that practice?—A. None at all, but we have now the practice that if they say no, we need not immediately go to the quorum, we can endeavour to procure additional evidence and return to the commission.

*By Mr. Betts:*

Q. Just before you leave that point do you not think in the interests of the applicants themselves it is desirable at some stage that finality should be reached?—A. Entirely so.

Q. Do you not agree that there should be some stage at which they are finished with the commission?—A. Entirely so.

The CHAIRMAN: Otherwise we would not want a quorum.

The WITNESS: I agree with you.

*By Mr. MacNeil:*

Q. If you go to the commission and you discuss a case and they say there is not enough evidence and you get this further evidence, it is still before the commission, is it not?—A. Yes. It is a question of what is on file before the commission and what is not.

*By the Chairman:*

Q. They take days and months, I am told, to come to a decision on many cases, do they not?—A. That is true. I still am convinced that this Act, as



drafted at the present time, visualizes a very much more immediate passing over to a quorum hearing, and whereas I will agree it is possibly not advisable to be able to come back quite as frequently as we do at the present time, we do think we should have at least two bites at the cherry.

*By Mr. Green:*

Q. Is it not largely a matter of the cases not being completely prepared?—  
A. That is true, but sometimes we are forced to do it.

Q. Why should you be forced to?—A. A man may be so sick that he is in danger of passing out himself, or there may be evidence that he wants to produce.

Q. Could you not have his evidence taken and then adjourn the case?—  
A. That may be so.

Q. It is simply a matter of the way the case is handled?—A. That is true, but, at the same time, there are many cases—and those who have handled adjudication will appreciate this—where you think you will get through without the additional evidence of John Doe or Doctor So and So.

Q. That is just what clogs up the commission?—A. It may do so, but there is an attempt on the part of the pension advocates and others to try and get the case on as soon as possible with what they appreciate may not be all the evidence which should be available but is all they could get at that time and which they probably think may be sufficient.

The CHAIRMAN: We had better check up on the pension advocates, if they are not preparing the cases properly?—A. The pension advocates, in the main deal with them when they come to the quorum. I am talking of the adjustment officers. They are the people who in the main deal with the commission. I think the chairman will agree with that.

The CHAIRMAN: Yes.

Mr. GREEN: Do the pension advocates not help in the original presentation to the commission?

The CHAIRMAN: Many people do not know that pension advocates exist. They write in to the commission and the commission tells them what to do. I think the stock reply is that if they will get in touch with Mr. So and So, who is the pension advocate, he will tell them just what to do. Then the pension advocate tells them what evidence they should have and so on. But a great many men say, "All right, I will shoot it in, and I want a decision," independently of any advice he may get.

*By Mr. Green:*

Q. If you are changing the Act in this way, should there not be provision made for the proper presentation of cases by the advocates?

Mr. REID: You would go before the appeal court first with all the papers, and if unsuccessful you could come before them again, is that not right?

The CHAIRMAN: That is the present practice.

The WITNESS: The present practice is that you can go quite a number of times. This new provision visualizes that you do it once and then are notified that your next chance is before the quorum, and you must make your application within 90 days.

The CHAIRMAN: It strikes me now—I have not given much thought to it—that if the man has any kind of a case at all, these people keep on hammering at the commission and never let him go to the quorum. The only ones who go to the quorums are ones who are pretty well damned in advance, and if they think that by constantly urging on the Pension Commission that he should have a new hearing, they will keep on going. Only the very, very, bad cases

[Captain E. Browne-Wilkinson.]

would get to the quorum, and that might account for the very large number of adverse decisions of the quorum.

Mr. BETTS: I do not see how it could have any other effect.

The CHAIRMAN: That is to say, if a case gets into the hands of the legion service bureau, they are bound, if they think there is any chance at all, to keep on with the pension commission. It is not in their interests to go to the quorums at all.

Mr. BETTS: In other words, the commission as now constituted forms a very fine strainer.

The CHAIRMAN: Yes, I think so. It looks like that to me.

Mr. MACDONALD: I do not think there will be much difference. Supposing as the witness says a man needs the evidence of John Jones, I think in future the commission will tell the man to get the evidence and will hold the matter up in the meantime. Then he will get this evidence of John Jones, and the whole thing will be before the commission.

The CHAIRMAN: That might have the advantage of having the man's case better prepared. He will have a better preparation of his case to go before the commission, and it will again be much better prepared if it gets to the quorum.

WITNESS: Well, you will have the evidence of experts on this point who are much more capable of discussing it than I am. I believe they agree with me that there is a too fast reference to the quorums to be advisable from the man's point of view and also in connection with the expense of calling witnesses for quorum hearings.

I shall next deal with the Hyndman report.

*By the Chairman:*

Q. Have you finished with pensions?—A. I think in the main.

Q. You have not said anything about files; you disappoint me?—A. As far as I am concerned, you have been very courteous every time I have asked for a file.

Q. There is a new section in the bill here. All right, proceed.—A. I will endorse anything which Mr. Bowler and Captain Gilman have said on that point, because they are probably better able to deal with it than I am.

Q. You are dealing with Bill 28 now, are you?—A. I am dealing with the report itself.

Q. As such?—A. As such.

*By Mr. MacDonald:*

Q. What page?—A. Page 12.

*By the Chairman:*

Q. Is this your statement to the Hyndman Commission?—A. That was not mine.

Q. Do you want to submit this?—A. Yes, but not at the present moment. I do not know if all the members have copies of the report of the Hyndman Commission.

Q. You are dealing with the Hyndman report, may I ask for what purpose? Do you agree or disagree with it?—A. In some points I think the premises upon which it was based are wrong.

Q. It is not legislation, you know, it is a report of a commission that has been made and some of the recommendations have been acted upon and some have not. Now, is the object of your statement to say that that which has not been acted upon should have been acted upon and that which has been acted upon has not been acted upon properly?—A. Yes. There are some statements in the report itself which doubtless will be considered by the committee when considering Bill 28 as being based on the wrong premises.

Q. Have your representations any relation to Bill 28 or have they any relation to any action which has been taken by the Department, or any action which has been omitted by the Department, if I may put it that way?—A. Some portions of it deal with portions of the Hyndman report which fails to recommend any change in the War Veterans' Allowance Act.

Q. Did you make any submissions on the War Veterans' Allowance Act?—A. I have some of them. If it is satisfactory to you I can cut this down very considerably to what will be dealt with by this committee.

Q. I have no objection at all, except that I do not see what object you would have in either approving or attacking the report. I do not know which you propose to do, or whether you just propose to talk about it?—A. There are some portions of it—the brief itself is before the committee. Anyone can read it over. There are one or two points there I would like to discuss. If it would be satisfactory to you possibly I might be allowed a few moments the first thing to-morrow morning in which to finish it.

The CHAIRMAN: Are there any other witnesses whom we could hear this afternoon, providing the committee is willing to come back this afternoon. Have you any more witnesses, General Ross?

General Ross: We have no more present, sir. We might have something to say later on.

The CHAIRMAN: You mean to say, after we have submitted our report. We expect that.

General Ross: Oh, we will take that up next year.

The CHAIRMAN: Would there be any other witnesses available this afternoon?

Mr. BOWLER: My understanding was that the Corps Association were to come to-morrow.

The CHAIRMAN: If we could get some work done by sitting this afternoon, I should be very glad to do so.

Mr. MUTCH: There might be some departmental witnesses with whom we could start.

The CHAIRMAN: If we did that we would only have to recall them. We had better wait perhaps until the submissions of the several associations are in.

Mr. REID: I hope you don't propose to make it a precedent, this sitting twice a day?

The CHAIRMAN: I was just coming to that. I wanted to take that up with the committee. We will have to make better speed than we are doing. As I understand it now there are no more witnesses except the Corps Association. Now, General Ross, will you have much more?

Mr. THORSON: There are a number, Mr. Chairman, who would like to be invited to send representatives. I am not aware of any others that wish to come.

The CHAIRMAN: Have they raised any particular points that have not already been covered, as far as you know?

Mr. THORSON: I do not think they have raised any points that have not been dealt with by representatives of other organizations. I propose to have a meeting of our subcommittee this evening to discuss the various communications that have been received and we will be able to make a report to this committee at its next sitting.

The CHAIRMAN: Well then, I think we may say that barring accidents or something very special we will finish hearing witnesses this week. I will ask the departmental officers to be ready to appear before us during the first of the week. We will meet again to-morrow morning at 11 o'clock. April 28, 1936, at 11 o'clock a.m.

The committee adjourned at 12.48 o'clock p.m. to meet again to-morrow,



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SESSION 1936

HOUSE OF COMMONS

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SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 10



TUESDAY, APRIL 28, 1936

## WITNESSES:

Hon. J. Earl Lawson, M.P.

Captain E. Browne-Wilkinson, Chairman of the Dominion Legislative Committee, Army and Navy Veterans in Canada.

Lieutenant Colonel G. R. Philp, M.D., Canadian Corps Association (in Ontario).

Captain W. W. Parry, K.C., Vice Chairman of the Legal Committee, Canadian Corps Association (in Canada).

Mr. T. C. Lapp, Canadian Corps Association (in Canada).

OTTAWA

J. O. PATENAUDE, I.S.O.,

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936



## MINUTES OF PROCEEDINGS

APRIL 28, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present: Messrs. Betts, Brooks, Emmerson, Fiset (Sir Eugène), Hartigan, Macdonald (Brantford City), MacNeil, Marshall, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (Middlesex East), Streight, and Thorson—15.

Hon. J. Earl Lawson, M.P., was called, made a submission to the Committee and retired.

Captain E. Browne-Wilkinson, Chairman of the Dominion Legislative Committee, Army and Navy Veterans in Canada, was recalled.

On motion, it was ordered that pages 12 to 16 of his brief be read into the evidence.

Witness filed "Submission to the Hyndman Commission on Unemployment by the Army and Navy Veterans in Canada."

Also "Statement *re* operations of Assistance Services of the Army and Navy Veterans in Canada."

Witness retired.

Lt.-Colonel G. R. Philp, M.D., representing the Canadian Corps Association (in Canada), was called, examined, filed brief and retired.

Captain W. W. Parry, Vice-Chairman of the Legal Committee of the Canadian Corps Association, was called, examined and retired.

The Committee adjourned until 4 o'clock p.m.

APRIL 28, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met at 4 o'clock p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present: Messrs. Betts, Brooks, Fistt (Sir Eugène), Green, Macdonald (Brantford City), MacNeil, Marshall, Mutch, Power (Hon. C. G.), Reid, Ross (Middlesex East), Streight, and Thorson—13.

Mr. T. C. Lapp, Canadian Corps Association (in Ontario), was called, examined and retired.

The Committee then went into executive session to discuss agenda.

Mr. Mulock was present at the meeting on Monday, April 27, but in error was not so recorded.

The Committee adjourned at 5.50 p.m. to meet again Wednesday, April 29, at 11 o'clock a.m.

J. P. DOYLE,

*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS,

April 28, 1936,

Room 497.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, presiding.

The CHAIRMAN: Order please.

Our first witness this morning will be Mr. Lawson, who wants to place before the committee his views on the interpretation given to the words, "theatre of actual war" as they appear in the War Veterans' Allowances Act.

Hon. J. EARL LAWSON, called.

Mr. Chairman and gentlemen, I raise here a specific case but it is illustrative of 25 or 30 applications under the War Veterans' Allowance Act which have been refused by the War Veterans' Allowance Committee because of a ruling by the deputy minister of Justice.

Possibly I should give my facts: Albert Farmer enlisted and went overseas with the 36th battalion C.E.F. The 36th battalion was a reserve battalion in England, but over a period of months Farmer who was a quarter master sergeant was assigned as conducting officer with detachments going from the 36th battalion in England to re-enforce battalions in the line. In the course of his duties Farmer constantly went to France and on occasion conducted parties up to the units they were to join. Unquestionably he was from time to time in a "theatre of actual war" as defined by the Act, although the unit in which he served was never in France. The man has now qualified under the War Veterans' Allowance Act, subject to the one question, for a War Veterans' Allowance. Section 2 of sub-section J. of the War Veterans' Allowance Act defines a veteran:—

Veteran means any former member of the Canadian Expeditionary Force who served in a theatre of actual war.

Then, "theatre of actual war" is defined. There is no dispute that this man was actually in a theatre of actual war within the Act. However, the Justice Department rules as follows:

The War Veterans' Allowance Act provides that a Veteran is a former member of the C.E.F. who served in a theatre of actual war. "Theatre of war" is defined in the case of the military and air forces to mean the zones of the allied armies on the continent of Europe. The only way in which a soldier can serve in a theatre of actual war, in my opinion, is by being taken on the strength of a unit on active service in the field. I am, therefore, of the opinion that this man is not eligible for assistance under your act.

In plain words and lay language the deputy minister of Justice gives the opinion that in order to get a War Veterans' Allowance the unit to which a man was attached must have served in an actual theatre of war; and I say the Act does not say anything about a man's unit being in an actual theatre of war, it says:—

Veteran, means any member of the Canadian Expeditionary Force who served

not whose unit served,  
in a theatre of actual war.

*By the Chairman:*

Q. What is the date of that opinion?—A. That is the 17th of September, 1934. The Justice Department had given a prior opinion in connection with the same matter at an earlier date; and this one I think is confirmatory of the prior opinion.

The CHAIRMAN: Might I just add there, this perhaps has a wider application than the War Veterans' Allowance Act, because under Section 91 there are certain rules and regulations regarding treatment which apply to a man who has seen service in a theatre of actual war, and I have no doubt that if this opinion of the Justice Department were to be carried out certain people who possibly now are getting treatment might be barred under the new regulation. Since Mr. Lawson mentioned this I have taken some trouble to get definite information and I am informed really that this whole thing was considered at the request of the Department of National Defence in connection with the award of medals. They wanted to get an opinion as to who should get medals for service in a theatre of actual war so they took this up with the Justice Department who sent this ruling. I am told that whatever medals were to be awarded they should only be awarded for those who served in a theatre of actual war, and were not given to conducting officers or men who served on conducting parties. That is where this definition comes from. It is rather narrow, perhaps, that in order to profit by whatever benefit there is in having served in a theatre of actual war one must be attached to a constituted unit.

WITNESS: I just want to say this, that no matter what interpretation may be given to any other act I think it is a matter of law that every act must stand on its own legs, and I say that what we have to do is not to interpret who should get medals but who is entitled to War Veterans' Allowance under this Act. May I submit; it is not the unit, it is the man. My view is that if that interpretation of the Act is correct certainly parliament never intended that such an interpretation should be placed upon it.

*By the Chairman:*

Q. Have you any amendment to suggest?—A. No, I did not draft one.

The CHAIRMAN: I believe there are a number of similar cases. This question is one which is well understood by members of the committee. Has anyone here any further evidence to offer on this point?

GENERAL ROSS: That covers the ground, sir.

The CHAIRMAN: So far as that is concerned, it was brought to my attention in Vancouver also; as to whether a man who was a conducting officer or a member of a conducting unit which got to France served in a theatre of actual war. There is the opinion the Department of Justice, and I think we all have our own opinions about it. How many cases like that are there, Mr. Woods?

Mr. WOODS: I imagine there have probably been around ten or a dozen, sir. Of course, it also affects officers who went over who refused to revert and returned to England.

Mr. WOODS: The opinion of the Justice Department is that unless a man was actually taken on the strength of a unit in a theatre of actual war he did not see service.

Witness retired.

[Hon. J. Earl Lawson.]



The CHAIRMAN: We will now hear from Captain Browne-Wilkinson. I understand he has a few words to say to us.

Captain E. Browne-Wilkinson, recalled:

WITNESS: Mr. Chairman and gentlemen, I had proposed saying a few words on the Hyndman report, but with your permission I wish to file and have read into the record pages 12 to 16 inclusive of my brief.

The CHAIRMAN: All right.

WITNESS: If that can be read into the record it will save both the committee and myself a lot of time which would otherwise be taken up by reading and discussing it. That is all I have, other than to say that any point I have not covered, and I have been proceeding very carefully, has been covered entirely already by witnesses for the Legion and other veteran bodies.

I finish by saying, as I said in starting out, that my organization stands with the other recognized organizations of veterans' associations in the hope that we can do something which will help the cause of the ex-service men in Canada. Thank you.

Pardon me, I have here two things which were to be filed; one is a statement of the adjustment services of the association, the other relates to the request of Captain Gilman that I should file for the information of members of the committee a copy of his statement before the Hyndman commission.

Army and Navy Veterans' brief taken as read follows:—

## VII. Hyndman Report

### 1. In the Hyndman Report, page 12 the following appears:—

We have given a great deal of consideration to the request that *medical* and dental treatment be extended to pensioners who require same in respect of non-pensionable disabilities, and also to their wives and families when such pensioners are in receipt of relief from the Department. Medical treatment is the responsibility of the municipal authorities, and we find it difficult to appreciate upon what ground any discrimination, such as that indicated, is logically based. With the limited information at our disposal, we do not feel justified in recommending that the above request be acceded to.

Dealing with this, it is noted that the Committee included three classes of people.

- (a) The pensioner requiring medical treatment for non-pensionable disability.
- (b) The pensioner requiring dental treatment in respect of non-pensionable disability, and
- (c) Medical and/or dental treatment for the wives and families of pensioners.

Class (a) is already provided for, and these men can now receive medical attention and even hospitalization, but as Class 2 patients, but I think that the suggestions of the Committee dealing with the Classes (b) and (c) to the effect that the Department of Labour inquire into the matter may have a beneficial effect.

### 2. In the middle of page 12 the following appears:—

A pensioner might secure work . . . and consequently would lose the *medical treatment* and clothing benefits accorded to those on relief.

Investigation will show that, as mentioned above, this pensioner could receive the medical treatment or hospitalization for a non-pensionable disability as *Class 2 patient* even if he was working, provided the Departmental authorities considered that he was financially unable to provide for such medical

assistance, so that, in the above paragraph, that portion dealing with *medical treatment* being arranged through the municipalities is unnecessary.

This paragraph is again referred to on page 17, para. 12, and here the matter becomes even more involved, because it discusses work "which renders him *and his family* ineligible to be granted medical attention or clothing."

These words "and his family . . . . ineligible" would presuppose that if this man was on proper relief his family was eligible for medical attention, but such is not the case, and, again referring back to page 12, the Committee do not recommend that such extra assistance should be given.

3. Further, in the paragraph in the middle of page 12, the words "be arranged" occur, and on page 17, para. 12, the words "authorities to procure" apparently refer to the same procedure, but, in my opinion, are not sufficiently explicit, dealing with the question as to who will ultimately foot the bill, i.e., the Government or the Municipality.

4. At the middle of page 13, it is suggested that "the Federal Government should assume and implement, in cash, the amount of the difference between such rates," and the latter part of the para. 7 on page 17 deals with the same subject.

Is it suggested that the man would go to the municipality for relief and then call at the Department for the additional cash, or would the Department send a cheque to the Municipality so that the one attendance by the man would suffice?

5. At about the top of page 10 the following occurs:—

In our judgment, this basic rate is inadequate, and therefore, we are recommending a new *maximum* basic rate which we consider more satisfactory.

and then on page 16 the Committee proceeds, in para. 5 to set out their suggested new maximum basic rate.

Relief rates vary in different parts of Canada. For instance, the suggestions in the case of a married man with dependents, whilst higher than the summer rates in vogue in Winnipeg, are considerably below the present winter rates, as follows:—

	Winnipeg Summer rate	Winnipeg Winter rate	New basic rate 30 p.c. pension
Man and wife.. . . .	\$26 75	\$37 30	\$35 00
Man and wife and 1 child.. . . .	32 69	43 12	40 25
Man and wife and 2 children . . . .	38 66	51 17	45 50

In arriving at the new basic rate, I have taken the 30 per cent pension for the size of the family in question, and have added a 5 per cent pension for that family, and yet, in the winter rates, the reduction in the three classes would be as follows: \$2.30, \$2.87, and \$5.67, instead of the increase which was contemplated by the Committee.

The Committee also apparently did not take into consideration the fact that there is a difference between the basic rate for the summer and the basic rate for the winter. If it was their intention to take this into consideration, they have not so stated in their report, nor have they outlined how the difference in the two rates should be arranged.

6. Again referring to paragraph 5 on page 16, and the minimum amounts for food in the case of these dependants, we find:—

	Winnipeg Summer rate	Committee suggestion
Man and wife.. . . .	\$11 70	\$11 50
Man and wife and 1 child.. . . .	15 64	15 50
Man and wife and 2 children.. . . .	19 46	19 50

[Captain E. Browne-Wilkinson.]

From the above, it will again be seen that in the first two classes, whereas the Committee endeavoured to provide additional food, they actually provided less, though, in the third class, there was an increase of 4 cents per month.

7. In the 1st paragraph of page 10 it states:—

that pensions to the extent of 5 per cent be not regarded as income when computing the amount of relief to be granted. On page 16, however, 6(a) occur the words "in the case of a disability pensioner, a 5 per cent pension shall not be considered as income."

The statement on page 16 does not set out the apparent intention of the Committee as clearly as the wording on page 10, in that the latter apparently means the first 5 per cent of all pensions, and the other one merely says, "a 5 per cent pension shall not be considered. . . ."

8. It is regretted that the Committee have found no merit in the suggestion that the age under the W.V.A. should be lowered. As this is a subject which requires very careful thought, the following should be noted:—

At the top of page 8 the following words occur:

the primary desire of the soldiers was the securing of employment.

Whilst this is probably true in connection with the younger men, still, it is a question whether such is the case with a majority of the men at least over 55. After most careful conversations with dozens of these men, one must come to the conclusion that most of them appreciate that it will be almost impossible for the majority of them to again obtain permanent employment, and also, many of them appreciate that if they do get work, they are probably in competition with their own sons who are at the present time unemployed.

More than one man has stated that whereas he is not shirking his responsibilities, still, if there is only one position to be filled, he would prefer his boy to get it, as the latter, because of his physical condition, was more likely to be able to carry on, whereas, if he took the work, to the exclusion of the boy, and fell down on the job, it would mean that both of them would be again out of work.

Possibly this condition of affairs was recognized by the Committee when they discussed men "between the ages of 45 and 55 years," at the top of page 8.

Whilst one might agree with the statement occurring at the top of page 7 "the unemployed ex-serviceman is in a position entirely distinct from that of the remainder of the community", still, one cannot also lose sight of the fact which (occurs about the bottom of page 5), "there has grown up a great army of youth", and whilst the problem of the latter will be mainly considered by the Commission, set up under the Employment and Social Insurance Act, still, it should be noted, that it is suggested that the Chairman of the proposed Veterans Assistance Commission be appointed as ex officio member of the former.

It is suggested that the only hope of getting to work the youth of today, is to take out from the labour competition, the older men of today.

The lowering of the age under the W.V.A. Act, would not necessarily mean that every ex-service man over 50 or 55 would wish to take advantage of the Act, but it would make it at least available to him and the present system does somewhat savour of trying to get the last ounce of work out of an old horse.

So far as the increased cost is concerned, considering the sums involved to-day, it would appear that the figures would not be very substantial, because, whereas you put a man on Old Age Pension at one end, you take a youth off relief at the other.

Probably it goes even further than that. As long as the youth is unemployed, he cannot marry, whereas, if he could get steady employment, then he could start up a home of his own and another girl would be taken off the labour market.



From the above remarks, I would not have it inferred, that I am in favour of universal pensions, and certainly, I think that a great deal of benefit may be derived from the suggested Veterans Assistance Commission, and opportunities for ex-servicemen to be self-maintaining, may be disclosed without their necessarily going into active opposition to the youth of the country, and where a man would prefer to work rather than to take advantage of the W.V.A. I am in favour of helping him solve his problem, but still, I would have one eye on the other problem of the youth, if the man in question is too old.

The Witness retired.

The CHAIRMAN: We now have Lieutenant Colonel G. R. Philp, M.D., of the Canadian Corps Association.

LIEUTENANT COLONEL G. R. PHILP, M.D., Chairman of the Pensions and Hospitalization Committee of the Canadian Corps Association (in Ontario), called:

*By the Chairman:*

Q. Would you tell us something about your association?—A. I will do that. Mr. Chairman and members of the Committee:

Members of the combat unit associations comprised in the Canadian Corps Association (in Ontario) greatly appreciate this opportunity of presenting to you, and through you to the Parliament of Canada, their representations on matters affecting the interests of the disabled, the dependent and the distressed of those who served in the fields of actual conflict.

As this is the first occasion upon which our association makes representations to the Federal Parliament, it is in order to define our relationship to the veteran body as a whole. The Canadian Corps Association came into existence following the great Canadian Corps Re-union in Toronto, August, 1934 as the crystallization of the desire expressed by unit associations to have some means of closer contact one with the other. It will, therefore, be appreciated that while the central body has been in existence for less than two years, the member unit associations for the most part have been established for many years, some of them dating their origin to the time of demobilization of the C.E.F. At the present time there are ninety combat unit associations officially enrolled in The Canadian Corps Association. In turn some of these combat associations have as many as fourteen branches scattered throughout the country, with combined memberships ranging as high as 2,400. The supporting membership of the associations federated in The Canadian Corps Association is now in excess of 50,000 and increasing steadily.

There is one further factor that should be emphasized as to the composition of this body before proceeding with representations on their behalf. In the nominal rolls of The Canadian Corps Association are unit associations representing practically every section of The Canadian Corps as it functioned in the battle areas, 1914-18. Your committee will thus appreciate that we represent almost exclusively men and women who served in France and Flanders.

It should be added that the work of The Canadian Corps Association outside of the essential clerical staff, is being done entirely by voluntary effort, with the work of unit association committees on pensions, unemployment, welfare, etc., being headed up by central committees functioning under the direction of The Canadian Corps Association Council. It is on the basis of the practical experience of these committees that these recommendations have been formulated.

The Canadian Corps Association is not unmindful of the tremendous contribution in the post-war years of the general veterans' organizations, such as the Army & Navy Veterans in Canada and The Canadian Legion, of the organizations representative of specific groups such as The Amputations Association of

[Lieutenant Colonel G. R. Philp.]

the Great War, The Canadian Pensioners' Association and The Sir Arthur Pearson Club for Blinded Sailors and Soldiers. They have rendered a splendid service to the veterans of Canada and we desire to record our appreciation and gratitude. It is our desire to co-operate with them, and to enhance, as far as possible, the force of their representations with the considerable body of opinion which for the first time has become articulate through The Canadian Corps Association.

### PRINCIPLES

The Canadian Corps Association desires to enunciate the principles approved by its sustaining unit associations as the basis for these representations to your committee:

- (a) The Pension Act—No privileges enjoyed by veterans under existing legislation be restricted or limited until such time as the process of preparation, adjudication and administration has been placed on a generally satisfactory basis.
- (b) That in the interests of the country and as an essential step in dealing with the problem of unemployment among war veterans, the scope of the War Veterans' Allowance Act should be expanded sufficiently to take care of those who are not only physically incapable of employment but also those who may be classified as industrially unemployable.
- (c) That as an essential requirement in determining those who are in the group mentioned in (b), and to effectively deal with the general problem of unemployment among war veterans the first step should be a registration and classification of all unemployed veterans. This, we believe could be accomplished by enlisting the assistance of the National Unemployment Commission just authorized by Parliament. (The co-operation of The Canadian Corps Association is offered freely in this work, and in the other functions of the proposed "Veterans' Assistance Commission.")

### THE PENSION ACT

1. For several months The Canadian Corps Association has been conducting an analytical study of the Pension Act, with the volunteer pension officers of the unit associations meeting weekly under the direction of the Corps Council Pension Committee and studying some particular phase of the Act. Very early in our deliberations we became convinced that certain cases which appeared to have especial merit were being debarred from benefit under the Act, and we set out to ascertain the cause or causes. We examined several cases which had passed through the various stages of preparation, presentation, adjudication and appeal, and had been rejected—some of them on more than one occasion. We have reached the conclusion that the difficulty cannot be wholly ascribed to any one phase, but arises from several factors. For purposes of subsequent discussion we have endeavoured to group these factors under two general classifications:

- (a) Incomplete and faulty preparation.
- (b) Confusion of judicial and administrative processes.

We will proceed to discuss the basis of these conclusions, and present suggestions for the correction of the difficulties.

#### 2. *Incomplete and Faulty Presentation.*

In our weekly meetings, which have become known as the "Corps Pension School," we have had the dual object of assisting individual veterans and dependents in the prosecution of their claims and of endeavouring to determine ways and means of correcting defects in the law and its administration.

Individual cases are brought forward and analysed. In some instances the conclusion has been reached that cases lack sufficient merit in justice and equity,

and the applicant has been so advised. Where a case appears to have merit we immediately set about seeking the essential evidence. When we have gathered all available evidence, we then have utilized one or other of the existing adjustment services to have the claim presented to the proper authorities.

From this admittedly brief experience in this work we have arrived at these conclusions:—

- (a) That it is possible to “sort out the wheat from the chaff” before taking cases to the adjudicating bodies.
- (b) This sorting is facilitated by the fact that, working through the man’s unit association where he is known to many individuals, we receive first-hand evidence as to the extent and character of his war service and the corroboration or otherwise of the circumstances on service from which the man believes his disability developed.
- (c) That insufficient preparation has, in many cases, been the main reason for the rejection of the claim upon previous presentations.

There are numerous agencies which have been engaged for many years in the adjustment of claims for pensions and treatment. They had their origin in the early post-war days when the process of adjustment was comparatively simple and consisted mainly in guiding the claimants to the proper sources of attention. But with the passing years the work of adjustment has become more complicated, requiring expert assistance in preparation. A year or two after demobilization it did not require much corroborative evidence to determine the relationship to war service of a disability which then had developed. In most instances those who could testify regarding the case were readily available. Now there are long periods in which there is little available evidence of the progress of a disability, unit medical officers have died or are not easily found, other medical personnel and the war-time associates of the claimant have died or are scattered. The adjustment officer to-day must virtually be a combination of a doctor, a lawyer and a detective to do effective work. It is surprising, and not a little gratifying, to realize the results being secured by adjustment officers to-day who have no professional training and have only experience to guide them.

We believe that in the best interests of claimants and of the country steps should be taken to correlate this work.

At the present time the official source of aid to claimants is through the Veterans’ Bureau, which operates as a branch of the Department of Pensions and National Health. Various associations operate unofficial adjustment services, as well as private individuals who are engaged in this work. With the exception of some of the private sources, most of this work is carried out without fee or cost to the applicant. The associations utilize their own funds supplemented, in many instances, by grants from the Dominion government and various provincial Canteen Funds.

The Veteran’s Bureau carries the main burden of this activity and, generally we are of the opinion that considering its handicaps, it is achieving good results. The principal handicaps is that the Veteran’s Bureau is in the position of the prosecutor having to go to the defence for the key evidence to sustain its case. In other words, the officers of the Bureau must rely mainly upon the opinion of departmental doctors. The Bureau suffers the further handicap of being part and parcel of the department which does not permit that independence and freedom of action which should characterize the representatives of the claimant.

#### RECOMMENDATIONS

- (a) That the Veterans’ Bureau be made entirely independent of the Department of Pensions and National Health.

[Lieutenant Colonel G. R. Philp.]



- (b) That such Bureau be operated under the direction of a voluntary body appointed by the Minister, similar to the Soldiers' Aid Commission of Ontario, to whom the Director (Chief Pensions Advocate) shall be responsible.
- (c) That in the government appropriation for the conduct of the work of the Bureau provision be made for funds to permit the Bureau to secure independent medical and surgical opinions on claims.
- (d) That all claims, whether originating in preparation in the Bureau, in Veterans' Associations adjustment services, or in other sources, should be presented through the Bureau to adjudicating and appeal bodies.

NOTE.—(e) of the preceding recommendations would overcome the objections to section 23 of Bill 26, which provides that a quorum of the Commission must certify costs and fees of witnesses as justifiable before such can be paid.

- (e) That the Veterans' Bureau should have full authority to authorize the appearance of witnesses in support of claims, with prescribed witnesses' fees and expenses to be paid on voucher by the state.
- (f) That the Veterans' Bureau should continue to have full access to department files regarding cases to be presented, and shall have authority to determine those outside of the officers of the Bureau who shall have access to files for purposes of preparing claims.

NOTE.—(f) of the preceding recommendations would provide the safeguard desired in the examination of department files as proposed in section 26 of Bill 26, to amend section 72 of the Act.

We believe that this would effect the correlation of adjustment work; would bring to bear on every case all possible means of assistance to the applicant; would avoid duplication of adjustment effort; would ensure a more thorough exploration for supporting evidence; would save time and effort on the part of the adjudicating bodies inasmuch as cases would be presented only when fully prepared; would permit a clearer interpretation of section 73 of the Act (the benefit-of-the-doubt clause), and would facilitate the clearing up of the volume of outstanding claims.

The Veterans' Bureau would, in effect, become a responsibility of veterans' organizations because their adjustment work would be more closely related with its activities. And reliance can be placed upon veterans as a whole to see that the Bureau functions in the best interests of those whom it is designed to serve.

Finally, the Veterans' Bureau would have the full confidence of individual veterans who would be ready to accept the results of its work as the full extent of possible aid in advancing their claims.

*By Sir Eugene Fiset:*

Q. Will you kindly explain to what extent the Veterans' Bureau is under the Department of Pensions and National Health at the present time? Are they part and parcel of it at the present time?—A. It is part and parcel of the machinery as I understand it.

*By Mr. Thorson:*

Q. You made a statement just a little while ago that the Bureau suffered a further handicap on account of its being part and parcel of the department, which does not permit of that confidence and freedom of action which should characterize the representative of the claimant. In what way is independence and freedom of action on the part of any pensions advocate limited?—A. They cannot get independent medical or surgical opinion, or only get it with difficulty.

Q. Is that your main point?—A. Yes.

Q. Are there any other respects in which they are hampered in their independence and freedom of action?—A. Of course, you might say, the close association with the department—in a sense they are not being an independent body.

*By Sir Eugene Fiset:*

Q. For the information of the committee: What is your opinion in respect to what constitutes the functions of the Veterans' Bureau at the present time, and to whom are they responsible? I would like to get the main trend of your argument.—A. According to section 51 of the Act, when a man applies for pension he is supposed to go to the medical officers of the Pension Department. They are supposed, under the Act, to get the full details in order to get his application complete in every respect. And then after this information is fully prepared and he signs that that is all the information he has that is sent to the commission at Ottawa. The commission may or may not grant the man entitlement. If they grant him entitlement he gets a pension. If they do not then the case is refused and the man can then take action through the quorums. And that is where the Veterans' Bureau steps in and assists the man in preparing his case for the quorum, and later on to what has been called the Appeal Court.

Q. Yes, but what I want to understand is where this Veterans' Bureau begins; are they paid officials of the department or not?—A. You have brought up a question there which I will have to deal with. According to section 51 of the Pension Act the first application shall be to the medical officers of the department.

Q. I know that?—A. What is being done now is this: When a man comes to the medical officers of the department, the pensions man, he is given this form, No. 923. In question 10 he is asked, do you want the Veterans' Bureau to act for you. If at the outset he says the Veterans' Bureau will act for him then the pension officers turn it right over to the Veterans' Bureau. According to the Act they should not do that. The Veterans' Bureau should only come in when it comes to a preparation of the case for presentation to the quorums or to the Appeal Court.

*By the Chairman:*

Q. Do you object to the Veterans' Bureau taking it on right at its inception?—A. What I would like to see is this, let them do one of two things. If the pensions officers act in the first instance, then when they get through there as it is now their work is cluttered up by files that come back from the Veterans' Bureau asking for further information. I was in one office recently where the officer had 20 files on which he had to write letters for the quorum and Appeal Court. In my opinion that should all have been done by the Veterans' Bureau.

Sir EUGENE FISET: But what you are recommending as a remedy is that the Veterans' Bureau be responsible directly to the minister?

The CHAIRMAN: No, not that it be responsible to the minister at all, but that it should not be responsible to any government body at all.

Sir EUGENE FISET: What I want to know is, to what extent is it a government body at the present time?

The CHAIRMAN: The Civil Service Commission appoints the advocates. You are thinking of the Canadian Legion's Service Bureau.

Sir EUGENE FISET: No. I want to know exactly what is the standing of the Veterans' Bureau.

[Lieutenant Colonel G. R. Philp.]

The CHAIRMAN: The Veterans' Bureau is appointed by the Civil Service Commission, and it is a branch of the department. It is not under anybody in the department as far as I know, except just the deputy minister and the minister I suppose. Nobody has ever interfered with them. I think the real argument Mr. Philp is trying to make is that when a man becomes connected with the department in any way, shape, or form, or draws a salary from the department, he is suspected by the soldiers.

Sir EUGENE Fiset: Exactly.

The CHAIRMAN: It does not matter who he is; and I think it is with a view to getting over that that Colonel Philp makes this suggestion.

Sir EUGENE Fiset: That is what I want to get at.

Mr. THORSON: What I understand Colonel Philp to suggest is that he should be responsible to some committee.

WITNESS: A voluntary commission, similar to the Soldiers' Aid Commission in Toronto.

Mr. THORSON: But that that commission in turn should be responsible to the minister.

The CHAIRMAN: Oh, no.

WITNESS: To the pension advocate.

Mr. MACDONALD: In what way would that be different from the present arrangement?

The CHAIRMAN: It would not be connected with the department.

Mr. MUTCH: That might overcome the effect of the present system whereby the department man who acts as defence counsel and one who acts for the prosecution are partners in the same office.

The CHAIRMAN: Exactly.

WITNESS: That is one way of putting it.

Mr. MUTCH: The feeling is there. It does not matter how you express it.

The CHAIRMAN: What you have in mind is that one way of getting rid of all this difficulty would be simply to put the advocate outside, and then the man could choose his own organization, its representative being paid by the government, and further that such representative would be responsible for the complete preparation of the application. Is that explanation right?

WITNESS: You are right, sir; and this bureau would then prepare all applications from the start.

The CHAIRMAN: The bureau prepare most of them now, don't they?

WITNESS: I fancy so, except with respect to initial applications.

The CHAIRMAN: And I think any new applications too. I just looked up that part of the section, section 51, subsection 4:

Should the applicant indicate, in the questionnaire or otherwise, that he desires the assistance of the Veterans' Bureau or other representative in the preparation and presentation of his application to the commission, the commission shall refer such application to the Chief Pensions Advocate for the necessary action.

*By Mr. Reid:*

Q. Do you find any complaints along the lines of the viewpoint held by returned men that in far too many cases the work of departmental officers becomes largely perfunctory. That is the way it has been put to me and I was wondering if you had found the same thing?—A. To a certain extent, yes. We have found certain cases of that; where other outside bodies have taken an interest in the case and have been able to assemble additional evidence that has been of value.



Q. I know, speaking personally, I had a case come before me in which I discovered things which it was really the duty of the pensions advocate to discover?  
—A. That goes back to what ought to constitute full and complete preparation.

*By the Chairman:*

Q. The big point you make, I take, is to the effect that the applicant at the present time does not as a rule have his case prepared by the Veterans' Bureau. He just simply sends in his application, and under subsection 1 of section 51 it is provided that the commission shall ex-judiciously consider each application submitted to it; but in reading subsections 2 and 3 we see that when it is necessary to obtain further information the commission shall furnish each person who makes application an application form and questionnaire; and then under subsection 3 the applicant is required to file these forms; then in subsection 4, should the applicant indicate in the questionnaire that he desires the assistance of the Veterans' Bureau in presenting his application to the commission he shall have it. My information is, whatever may have been the practice, that within the last year or two almost all new applications are treated in the manner laid down in the Act. That is to say, the questionnaire is sent out to the man, the man fills it in, he gives his medical evidence, and if he so desires he has the services of the Veterans' Bureau. Am I right in that?—A. Yes. I have some further information here respecting the Veterans' Bureau which might be of assistance. Shall I read it?

*By Mr. Thorson:*

Q. Before you do that: The Chairman has suggested that an alternative system would be the employment of outside counsel. What would your view be as to that?—A. There would be a lot of objection to that. We prefer to have some unified centre.

Q. You would rather have a central unit composed of persons who are doing this kind of work all the time?—A. Yes.

*By Mr. MacNeil:*

Q. In your experience as a medical man do you find any very great necessity for having independent medical opinion?—A. Yes. I think it is very enlightening sometimes. I suppose it is only human nature, when a man has been associated with certain types of cases for five or ten years he has a certain trend of systems in his mind, and so on, and it is pretty hard for him to get away from it. I am talking of departmental doctors.

*By Sir Eugene Fiset:*

Q. Would not that also apply to a Veterans' Bureau if one were created?—Yes, but they could get independent opinion.

Sir EUGENE FISET: The following page explains what Colonel Philip has in mind.

WITNESS: That is what we say about the Veterans' Bureau.

In creating the Veterans' Bureau, the 1930 amendment to the Pension Act simultaneously provided for the Pension Tribunal and the Pension Appeal Court. These additions provided for four separate and distinct entities concerned in the handling of a pension claim from the time of its inception to that of final decision.

These were:—

Veterans' Bureau  
Board of Pension Commissioners  
Pension Tribunal  
Pension Appeal Court

[Lieutenant Colonel G. R. Philp.]

This practice, in these days, was to apply to the Board of Pension Commissioners for entitlement, and if such was refused, the Veterans' Bureau interested itself from this stage, preparatory to hearing by the Tribunal.

Cases, which at that time were pending hearing by the Federal Appeal Board were considered ready for hearing by the Tribunal with the consequence that the work ready for presentation to this latter body represented by many hundreds of cases on hand created a difficult problem insofar as keeping abreast of work was concerned.

Further confusion arose when it was found necessary to have the Board of Pension Commissioners review hundreds of cases they had already adjudicated upon, wherein reasons for refusal of the application had not been recorded.

These two important features are considered worthy of special mention as it is our opinion that the machinery created under the 1930 amendments would appear to ensure a fairer, more complete and equitable means of disposing of applications than has been in effect either before or since they were in force, although in the interim it has been seen fit to so amend procedure laid down in 1930, that absolutely no similarity remains.

The first radical change was effected by the 1933 amendments which disposed of the important Tribunal hearings and substituted therefor, hearings by a quorum of the enlarged Canadian Pension Commission.

This departure, we believe, was a major loss to applicants inasmuch as appeal from Pension Commission decision was removed from the jurisdiction of a separate court, and vested instead, in two members of the same authority who had already given a ruling adverse to the applicant.

Functions of an administrative nature formerly performed by the Tribunal have been vested in the Commission who have to first approve witnesses called in support of a claim.

By these changes, and the close working arrangement developed between the Commission and the Bureau the feeling is prevalent that the expected independence of the Bureau from Commission influence has largely disappeared.

*By the Chairman:*

Q. Just there, might I ask: Do you maintain that there is a strong feeling that the commission has something to do with the Veterans' Bureau, or with the department; does the Bureau get a bad name because it is attached to the department, or because it is attached to the commission? A. It is pretty hard to make a distinction.

Mr. MUTCH: It is all the same family of cats, as far as that is concerned, from the standpoint of the man.

The CHAIRMAN: I don't know. Representations have been made that the commission is all right and that the department is no good.

Mr. THORSON: I think that is important. We should hear something more on that.

WITNESS: I do not think a veteran appreciates the difference.

The CHAIRMAN: We have had a lot of argument about it here since we started. If they do not appreciate the difference what is the objection to putting it all under the one head. But, really, is there the feeling that the Canadian Pension Commission has some or any control over the Veterans' Bureau; because, that is not so, as you know.

WITNESS: It is not so, as you say; but I do not think we can get away from the feeling that that impression is abroad among the veterans.

We believe that this opinion among ex-service men has become so generally held that those concerned are, to a greater extent, and more than should be necessary, relying upon association pension services in the furthering of their applications.

The underlying principle of the Bureau at the time of its inception was to provide, at Government expense, the necessary facilities for the complete, unhampered prosecution of a claim in behalf of the applicant. Without the assurance that the Bureau is interested solely in the interests of the individual, the effectiveness of Bureau effort is lost. It should be unnecessary for veteran bodies to expend their time and money in an effort to produce results expected to fall within the scope of the Bureau itself.

We are of the opinion that to restore the faith of the ex-service man that his particular section of the machinery is being operated entirely in his interests, it will be essential to first so reorganize the Bureau that its location and control will be completely severed from that of the Department and the Commission.

With the proposed absorbing into the Commission of the Pension Appeal Court, it becomes more necessary than ever to ensure that the Bureau itself does not actively become part of that body, as it is now the only remaining part of the machine perfected in 1930 that theoretically remains beyond the jurisdiction of the Canadian Pension Commission.

Its value rests in its independence and to guarantee that we propose that its control and direction be vested in an independent commission.

*By Mr. Thorson:*

Q. To what extent do you say that has gone on?—A. I could not give you a percentage.

The CHAIRMAN: Each association has filed a statement of their activities with regard to their service bureau.

Mr. THORSON: I think perhaps we have all run across this suggestion more or less; instead of going to the Veterans' Bureau people have been going to independent adjustment bureaux, in their various soldier organizations. There seems to be some tendency in that direction.

The CHAIRMAN: I think that is so. I think amongst members of parliament there is a tendency to send these matters on to the Legion or to the Army and Navy, instead of sending the applications to the advocate.

WITNESS: And the reason behind that is because they are independent investigators.

*By Mr. Thorson:*

Q. Do you think that is the reason for it?—A. Yes.

WITNESS: It might be interesting to try to estimate the amount of money that is spent on adjustment work.

*By Sir Eugene Fiset:*

Q. Before you go on would you tell me if I am right in this: In the first stage application should be made to the commission; in the second stage appeal is had through a quorum; and in the final stage there is an appeal to the appeal court. I take it that what you are putting before us is that this Veterans' Bureau should be a body independent of the commission and the department?—A. Yes.

Q. To be set up by Order in Council?

The CHAIRMAN: Not by Order in Council; an advisory board to be set up, a commission to be set up by Order in Council—they would go out and hire their advocates, and all the rest of it. It would completely abolish the present Veterans' Bureau.

Mr. MACDONALD: You would not necessarily change advocates would you?

The CHAIRMAN: This commission would look after its own.

[Lieutenant Colonel G. R. Philp.]



Mr. THORSON: The suggestion is that the Bureau be operated under the direction of a voluntary body to be appointed by the minister, a body similar to the Soldier's Aid Commission.

Mr. BETTS: This voluntary body could go out and hire anybody they want, not necessarily the present ones.

Mr. MACDONALD: I think we are hearing the evidence of the witness just now; at least, we should be.

The CHAIRMAN: We are trying to make it clear. As I gather it from the set-up proposed by the witness this voluntary body or commission would have complete control over the Veterans' Bureau.

Mr. THORSON: In other words, they had a number of independent bodies in 1930, as a result of the legislation of 1930; and they are making a special effort to increase, if possible, the independence of the Veterans' Bureau.

The CHAIRMAN: Exactly.

The WITNESS: We are of the opinion that under such an arrangement this work can be carried on at less expense than it is costing now both with respect to veterans, adjustment bodies and the government. It is very difficult to estimate what is being spent at the present time on this adjustment work in the preparation of applications, but we have figured it at roughly a quarter of a million dollars. Our estimate is as follows:

#### *Expenditure on Adjustment Work*

Veterans' Bureau, fiscal year ending March 31, 1935.....	\$ 173,036 81
Canadian Legion Dominion Hdqrs. Service Bureau, 7½ years cost	
\$191,623.21. 12 months' average.....	24,725 58
Canteen Fund grants Legion provincial Bureau—Ontario, Saskatchewan and British Columbia—1935.....	21,000 00
Legion funds added to above, possibly.....	5,000 00
Army and Navy Veterans in Canada, Dominion Adjustment office .....	20,000 00
Other associations and private services, possibly.....	6,000 00

**\$ 249,762 39**

#### *Cases handled—*

Veterans' Bureau 18 months, 14,739, or 12 months average.....	9,826
Canadian Legion Dominion Headquarters in 7½ years, 21,223, or 12 months average of.....	2,738
Army and Navy Veterans state they have files upon which action taken during the year about.....	10,000
Other associations, and provincial offices estimated.....	8,000

**30,564**

#### *Public Expenditure*

Veterans' Bureau .....	\$ 173,036 81
Legion grant .....	9,000 00

**\$ 182,036 81**

#### *Pensions awarded and re-instated (Fiscal year 1934-1935)*

Disability, awarded .....	1,170
Disability, re-instated .....	901

**2,071**

Dependents, awarded .....	726
Dependents, re-instated .....	385

**1,111**

Total ..... **3,182**

(It should be here interjected that in the same period there were 2,628 pensions discontinued, so that the net increase in the number of pensioners during the fiscal year was 554.)

The duplication in the submission of cases is such that it is extremely difficult to determine the actual number of individual cases under consideration. We believe that with an amalgamation or centralization of adjustment effort the total number of files would not exceed 15,000.

On the basis of pension claims established or re-instated the amount expended for adjustment services average about \$78.50 per case. Or, on a basis of actual claims the expenditure is around \$16.00 per case.

We are not in a position to state that this expenditure is excessive, but we do contend that if there was centralization of effort this expenditure could be rapidly reduced, and relieve both the public, semi-public and association purses.

*By Mr. Macdonald:*

Q. Your suggestion is that if a Veterans' Bureau was established these independent bureaux would cease to function?—A. They might cease to function. That would be a matter for them to determine.

Q. If they did not cease to function it would not cut down the cost very much. For instance, I understand the Legion maintains an extensive service?—A. I think that would depend upon their being properly represented on the central board.

*By Mr. Reid:*

Q. Would it have this further defect: At the present time the Canadian Legion branches look after many cases; there are many ex-service men who do not belong to that organization and therefore do not avail themselves of that service?—A. Certainly.

Q. If your organization were set up they would avail themselves of its facilities?—A. Yes.

The CHAIRMAN: I suggest that perhaps we had better ask the Legion about that. They don't have to belong to the Legion in order to have their cases looked after.

The WITNESS: Oh, that is so; and it is the same with other organizations.

Mr. MACDONALD: I think the largest percentage of cases handled by the Legion are for non-members.

Mr. BOWLER: We estimate that about 80 per cent are non-members.

The CHAIRMAN: You are bound to do that if you are going to get the grant.

Mr. BOWLER: That is right, sir.

The CHAIRMAN: You suggest that the \$173,000 paid for the Veterans' Bureau, and the \$9,000 which now goes to Canadian Legion should be handed over to some such body as you propose. In that way would you to some extent limit the responsibility of the government? Of course, you would have to do that. They would say, we will make you a grant of so much; and then the government washes its hands of it. The government would have to make some arrangement whereby they would hand over that amount, or possibly augment it a little, and then they would say, now we have nothing more to do with the preparation of claims. That would be great for the minister.

Mr. MUTCH: It might be worth another \$12,000 to get rid of that.

Mr. MACDONALD: At the present time when a new pensions advocate is to be appointed what is the procedure followed?

The CHAIRMAN: Application is made to the Civil Service Commission.

*By Mr. MacNeil:*

Q. Might I ask you this: Do you think it possible to form a voluntary commission competent to govern extensive administrative machinery of that [Lieutenant Colonel G. R. Philp.]

character?—A. We mentioned the Soldiers' Aid Commission in Toronto. It is a very efficient organization. I think most of its personnel are officers, and I think in an organization of the kind I have suggested people of that type who are interested in the problems of soldiers would be delighted to give their services.

Q. You have in mind of course that this is a national enterprise?—A. I have in mind that it is a national enterprise.

Q. And in practice would it not result in the Chief Pension Advocate being director?

The CHAIRMAN: He would be doing what he does now, except that he would not be under the odium of being a government employee.

Sir EUGENE Fiset: On the other hand, how else could you proceed in practice. At the present time appointments are under the Civil Service Commission. If you appoint a new bureau are you going to take in the same men—what are you going to do?

The CHAIRMAN: I suppose the proposal is that we should fire them all and hand it over to the Commission.

Sir EUGENE Fiset: But, then, you are responsible for the appointment of the commission.

Mr. THORSON: The minister would be responsible for the appointment of the commission.

The CHAIRMAN: We would be up against this in so far as the House of Commons is concerned; it would be said, you are forming a commission so that you can exercise patronage. There is one way of doing it, and that is to hand it all over to this Veterans' Assistance Commission that we are proposing.

Mr. THORSON: The thought that occurs to me is this: If such a commission were set up what would be the feeling towards that commission on the part of those various organizations which have sprung up from one part of Canada to the other who are not affiliated with the Legion and who feel that the Legion does not speak for them.

The CHAIRMAN: It is not the Legion's suggestion.

Mr. THORSON: No, but the Legion being the strongest organization might perhaps be the strongest force on this commission. I think you get the idea that I had in mind, there are a number of organizations that have sprung up across Canada. How would they view it?

WITNESS: I feel that they would all be sympathetic toward a commission of that kind.

*By Mr. Betts:*

Q. I do not know that this is practical, but would it be possible to obtain an expression of opinion from these various organizations, they are quite numerous, and just see how that stacks up?—A. I am representing between 50,000 and 60,000 men, which includes practically every unit of the Canadian corps. There are 90 units in our organization which have endorsed this proposal.

*By Mr. Reid:*

Q. Is that for the whole of Canada?—A. That is for Ontario.

Mr. BETTS: Are there organizations which are not represented here at all?

The CHAIRMAN: Oh, yes. There are 160 odd organizations, if not more. I think there are 160 of these organizations in Toronto alone. Do you know how many there would be, Colonel Philp?

WITNESS: I don't know how many there are.



*By Mr. Betts:*

Q. Colonel Philp is just propounding this suggestion. I wonder if it would be possible for him to obtain the opinions of other organizations?—A. We submit this: That the government might consider it, and we are behind it.

Q. I understand that. You might bolster it up a great deal if you could show that a large body of outside organizations were also behind it?—A. We have 90 organizations throughout Ontario, and we have 5 in Alberta, and others are forming in the different provinces.

*By Mr. MacNeil:*

Q. How large a commission would you suggest?—A. I fancy each of the provinces would have representation.

*By the Chairman:*

Q. Your idea is that it would be voluntary?—A. It would be voluntary and honorary.

*By Mr. Reid:*

Q. Do members of your organization belong to the Legion also?—A. Many of them do.

The CHAIRMAN: If it is a voluntary organization, as someone has pointed out, it means that really the Chief Pensions Advocate would run the show.

Mr. MUTC: That is their recommendation, isn't it?

The CHAIRMAN: Whoever was their executive man would run the show. There is no question about that; because when you have a voluntary organization spread all over the country it is not effective. It is not a striking force. Further, the department would have no control over them.

*By Mr. Reid:*

Q. I suppose you would set up branches at all important centres?—A. The present organization would likely carry on.

Mr. THORSON: Have we had any expression of opinion from the Legion, or from the Army and Navy Veterans, on this?

The CHAIRMAN: They are here and will probably have something to say.

*By Mr. MacNeil:*

Q. If this commission conforms to geographical representation its meetings will of necessity be limited to, say, four times a year?—A. It is the governing body and the Chief Pensions Advocate would have to carry out their rules and regulations.

*By Mr. Thorson:*

Q. It really would be the Chief Pensions Advocate who would run it under their direction?—A. Doesn't he run it now?

The CHAIRMAN: He does. I do not interfere with him.

Sir EUGENE Fiset: The commission might decide to have a new system altogether.

The CHAIRMAN: The commission would do as it pleased unless its powers were limited.

Mr. THORSON: Its powers would be defined. The minister has to set up the commission and the powers of that commission would be defined in that statute which authorizes the minister to set up the commission.

[Lieutenant Colonel G. R. Philp.]

WITNESS: Certainly.

The CHAIRMAN: Of course, if the powers are too well defined in any statute we get back to the same objection. If there is any control at all by the Minister we might just as well not set it up.

Sir EUGENE Fiset: You have to consider this too, all this would be new machinery. Nothing would prevent new applications from an army of ex-soldiers who might want to make a new application for pension.

Mr. THORSON: You could not restrict his method of approach.

Mr. CLEAVER: It does seem to me that so long as this proposed Commission were given a fund adequate to do the work it would be a wonderful thing, because it would take away from the present setup the prosecution of these claims, and the men would feel that they have someone acting for them, in place of the feeling of resentment which exists at present; that it is just a branch of the ordinary personnel of the commission supposedly acting for them and doing it in a very half-hearted manner.

Mr. MACDONALD: I would like to know, as a matter of information as to procedure, when the pension advocate is appointed by the Civil Service Commission, under whom does he work?

The CHAIRMAN: He works under the minister, in the department.

WITNESS: In the Veterans' Bureau.

Mr. MACDONALD: And the Chief Pensions Advocate—

The CHAIRMAN: —is the boss.

Mr. MACDONALD: What objection is there to that? He has no connection with the commission.

The CHAIRMAN: People think he has.

Mr. MACDONALD: It is just that people think he is connected with the commission.

The CHAIRMAN: Yes.

Mr. MACDONALD: Would they not think he was connected with the commission under the proposed arrangement?

The CHAIRMAN: They would not, at the start.

Mr. THORSON: One of the reasons is that he is housed in the offices of the department.

The CHAIRMAN: Yes, that is true.

WITNESS: He practically has to take commission medical advice.

Mr. MUTCH: That is one of the chief mistakes.

Mr. CLEAVER: Another point raised is that there are not enough of them. The men are dissatisfied because they are not getting results.

Mr. MACDONALD: That is another matter.

The CHAIRMAN: All right, gentlemen, I would like to get on with the evidence.

WITNESS: I would like to sit down for a moment and ask Captain W. W. Parry, K.C., to discuss the administrative and judicial functions of the commission.

Captain W. W. PARRY, K.C., called.

WITNESS: Mr. Chairman: Colonel Philip has been dealing with the means whereby the applicant has his case prepared for submission to whatever proper authority may be dealing with it. I am present to deal with a subject which has probably caused parliament more consideration than any other phase of the Pension Act, that has resulted I believe in efforts being made by parliament from

time to time to satisfy the veteran, and yet which on the whole cannot be said to be particularly satisfactory; that is, the judicial administration. I want to say at the outset that the premise upon which I am going is that the tendency of legislation since 1933 has not been in the interests of advancing a proper judicial interpretation of the legislation which appears on the statute books of Canada.

In a careful address to the House of Commons recently, the Minister of Pensions, the Chairman of this present Committee, made reference to the virtual impossibility of a pension applicant obtaining a favourable award from the Pension Court where it was apparent that such award would carry with it a substantial payment of retroactive pension.

Now, it is quite possible that I have paraphrased the minister a little too generally. The reference will be found in Hansard of March 31st, at page 1802.

It is fortunate that this condition does not obtain in the judiciary of this country. The theory and application of our British tradition of equal rights to all, appears to be not applicable to statutory pension awards. The position would be analogous to a condition where the Exchequer Court with its Judges paid by the Federal Government were to consider in giving a decision in a suit against the Crown the financial ability of the Dominion to pay such judgment or the fact that the claimant might be securing judgment for more money than he could properly handle.

We are convinced that the Minister has every desire to eliminate this ridiculous but serious state of affairs, but with the greatest of deference our Association is of the opinion that the suggested reorganization of the hearing and appeal side of the Department is not in a direction which can effect a remedy but is rather of necessity bound to accentuate the complaint.

When the tribunal system was created, it was maintained as a separate unit but recent changes in legislation have tended to place in the hands of the few complete control of the administrative and judicial functions of the Department.

*By the Chairman:*

Q. Pardon me, there: Are you confusing the department with the commission?—A. Well, perhaps that is ignorance on our part. We considered it the department, I should say "commission." Generally speaking, the effect of the proposed legislation is to place in the hands of the Pension Commission personally complete control over all pension matters both administratively and judicially, with the well-known dangers which accompany a combination of two such divergent operations. Six months after the new legislation comes into operation, such standardization is bound to be effected that the appeal from a hearing can be of no value.

We deprecate this fusion of administration and judicatory. Its operation can not favour the applicant but can only enmesh him deeper in the slough in which he has been struggling for years.

The analogy, Mr. Chairman, in the position in which this proposed legislation places the veteran would be if parliament were to appoint a board of directors for the Canadian National Railways and then appoint them a body to adjudicate on claims made against the Canadian National Railway. The point of our objection is that we do not think administration and judiciary should be under the one heading.

In 1923 it was recommended to the Royal Commission on Pensions, under the Chairmanship of the Honourable J. L. Ralston, that the court of first instance for pension hearings should be the county or district court where the man resided. The experience which has been gained since that recommendation was made convinces the Association that not only would speedy justice be attained but that the people of Canada would be spared large sums of money paid in travelling expenses and salaries under present conditions and the suggested reorganization.

[Captain W. W. Parry.]



I might say, Mr. Chairman, that it was my privilege to represent the veterans of Ontario before that commission, and we were opposed to the suggestion that was put forward that country judges should act in this capacity. We recommended to the Royal Commission the formation of tribunals which would be entirely democratic, and which we still feel might have served more adequately the needs of the day. Colonel Ralston in his wisdom preferred a compromise, and the suggestion of the county court was not concurred in and a tribunal was established that, while it was maintained for a while independent still had the element of bureaucracy in it. Now, the criticism will be made, Mr. Chairman, to you, no doubt, that the suggestion which we are making and which we consider fundamental, that of the county court judges handling these matters, is inconsistent. But, we make it in the first instance on the ground of saving public money; then on the grounds of expedition; and on the further grounds that it would possibly be a more satisfactory way of dealing with it. The first criticism will be probably that the judges are not capable of handling these matters. Well, Mr. Chairman, I have a higher opinion of our judiciary in this country than that. We trust our county and district court judges to assess the amount of damage in accident cases, say the loss of a finger and so on. They are trained to analyse and adjudicate upon every form of litigation, and I do not think that that could be seriously advanced, that these men are not capable of interpreting the statute and administering it. And the second criticism will be how can they—the present quorum, or that tribunal, dealt with incomplete cases and they used their humanitarian instincts and gave judgment not on the basis of the evidence, but on the basis of what they saw “fit.” That is quite possible, but when an appeal is taken then the veteran finds himself before a strictly technical legal court of qualified legal men who split hairs on legislation and do not understand what the application of humanitarian principles may be; with the result that section 73 is not properly interpreted so as to give them the benefit of the doubt; and with the further result that the applicant is absolutely penalized and thrown out. If we are to have a strictly legal interpretation we feel, after the experience of the many years that have gone by, that we have no apprehension in having it dealt with by a civil tribunal.

In the normal course these hearings could be handled without increase of personnel in practically every county or district except in very large centres. It might, however, be necessary to make an extra appointment in some of these cities, such as Toronto, but such appointment could after the first rush is over be continued in such position to replace any deceased or retiring judge.

That is not particularly important, but in Ontario we bring in county court judges from outside to sit ad hoc to deal with litigation. That might apply in this instance.

The veteran has no fear from a civil tribunal but has much to hope and in many instances would prefer to risk his chance for pension to a proper legal authority than to the temperamental adjudications that have come from at least some members of the courts established by pension legislation.

By way of appeal from such decision of the court of first instance, it is urged that a pension court separate and apart from the Board operating under authority similar to that of the Exchequer Court be organized. Such a court would remove the present criticism which has always been made against this side of the organization.

*By the Chairman:*

Q. Would you have a pension court composed possibly of civilians sitting on appeals from county court judges?—A. In so far as that is concerned I suggest that the court of first instance would be guided by competent authority in the proper interpretation of the statute.

Q. Would you not have an appeal court at all if you had county court hearings, other than the civilian appeal court? Would you have a pension appeal court?—A. I am rather in favour—please understand me that we are trying to be fair—of uniformity. It seems to me that we may have difficulty in getting uniformity in different parts of the country. We might find a judge in Perth county who might give anybody a pension, and one in Toronto who would not give anybody a pension.

*By Mr. Thorson:*

Q. Might that not be your major difficulty in allowing the county district court judges to deal with pension applications?—A. My suggestion in that regard would be this: That the veterans' bureau would function in the capacity of technical advisor. For instance, we have in the admiralty court nautical assessors and so on to advise the court.

MR. THORSON: What I am getting at is this: You have a county court judge. He is a leading figure in his community. Everybody respects him and he has perhaps a very kindly nature. He knows everybody in the district. He was brought up in the county and knows every man, woman and child in it. Now, would he be able to deal with a matter of pension applications in a proper manner, or would he allow his sympathy to run away with him. Pensions are a continuing matter, one which is different from the adjudication of an individual dispute.

THE CHAIRMAN: That would involve having crown representation.

WITNESS: Yes.

THE CHAIRMAN: We would have to go back to commission counsel all over again.

WITNESS: That is virtually what is done now.

THE CHAIRMAN: No. There are no commission counsel now.

WITNESS: The court is adequate commission counsel.

*By Mr. MacNeil:*

Q. Would it be possible to get all the evidence before a county court judge?—A. Yes, and to deal with it in a very expeditious manner.

Q. In some cases very important evidence would be at headquarters on file wouldn't it?—A. Your quorums travel.

THE CHAIRMAN: We could get the file down all right.

*By Mr. Thorson:*

Q. On the other hand, in some of the other districts you might go before a county court judge who has not got the characteristics I mentioned. Would you not lose much of the informal nature of the adjudications before the pension commission and the quorums?—A. Well, the informal nature has been inactive to such an extent that I do not feel it would be such a serious loss. A judge is qualified to make certain findings of fact. It would be his duty to do so, and if he did err on one side or the other his decision could be uniformed out by the proper body. A great deal of expense could be saved—all this travelling—also the complaints.

THE CHAIRMAN: I may say this: The suggestion of the set up proposed by this bill now before us is that the quorums will stay where they are until they clean up. They will stay in their districts. We are not going to have them travelling around if we can possibly help it. We will send the people to Vancouver and tell them, stay there until you have cleared up everything in sight.

WITNESS: But the day after they leave there will be another case of some urgency.

[Captain W. W. Parry.]

The CHAIRMAN: In Toronto I imagine they will be permanent for a number of years. As far as the other districts are concerned we propose to have the quorums stay there. We do not want them travelling all over the country.

*By Mr. Thorson:*

Q. You are setting up what might be termed very elaborate machinery.—A. I do not think so. I think what we have now is a very elaborate and, we claim, ineffective piece of machinery. And the trend of this present legislation confuses the whole thing—administrative and judicial. We claim it is absolutely wrong and unjustified.

Q. I have in mind one class of county court judge, one who lives in a country district—and, there are lots of other county court judges before whom I would not like to have my application for pension advanced?—A. There are a number of quorums by whom we would not want our pension claims heard.

The CHAIRMAN: How about the complaints that have come from a great many of the soldiers that a large majority of the county court judges have not had front line service?

Mr. THORSON: That is another thing.

The CHAIRMAN: At any rate, most members of the quorums have had some service. I know the strongest objection made of the appeal court is that only one member thereof has had front line service. I don't know what the figures are, but I would take it that at least 50 or perhaps 75 per cent of our county court judges throughout the country have not had front line service. Am I not pretty well right in that?

Mr. CLEAVER: Yes, Mr. Chairman. Anyone who has been before the appeal court in the Daly building knows that Mr. Justice Hyndman gives the soldier and everybody a squarer deal than does the chap who is on there who is a veteran. I refer to Colonel Sherwood.

The CHAIRMAN: I am not discussing that. But you will remember that very strong objection was taken to the appeal court on the ground that two of its members never saw front line service. Would not the same objection be taken to county court judges?

WITNESS: I think, Mr. Chairman, that you might gather from my remarks that the people for whom I am speaking would prefer to have adjudication from a civil body rather than to tying in the appeal and hearing all in the same body, all in one administration and all under one roof.

*By Mr. Thorson:*

Q. You mean, you want the adjudication function kept entirely separate from the department?—A. They should be two quite independent bodies.

The CHAIRMAN: That was the underlying principle of the 1930 legislation, that they would be independent bodies. We got away from that, and now we are seeking to go all the way back, right back to the old pension commission?

WITNESS: I think your ideas in 1930 were far in advance of this; if I might say so in all deference, sir.

May we repeat that we are definitely of the opinion that no logic or theory justifies the present amendment and we ask that the line of demarcation be made definite and for all time in the interests of pension applicants. As far as the Pension Commission itself is concerned, this would leave it a purely administrative body which could be operated under three or even one Pension administrator.

We make these recommendations in the interest, we believe, not only of the applicant but of the tax-payers of this country and in order to give effect as far as possible to the oft repeated wishes of Parliament that the pensioner or would-be pensioner of this country receive kindly and considerate treatment.



*By Mr. Thorson:*

Q. Supposing you did get the separation between the judicial and administrative functions, and a particular judicial officer turns out to be a coldblooded individual, with a definite viewpoint, one who has definite views as to pensionability and one who finds his facts in such a manner that they would be very hard to review by any parental body. You could be worse off?—A. You could not be any worse off.

Q. That is your view, you say you could not be any worse off than you are now; and that a separation of the judicial and administrative functions would enure to the advantage of the soldier?—A. I don't know where there is a precedent for that.

Mr. THORSON: To my mind it is a most anomalous set up.

Mr. MUTCH: It may be that all along the line we have made these appointments for too long a time. You said yourself, and I agree with you, that after a man has been employed for a limited length of time on these cases he gets people up against him and there are a lot of people who think he is no good; whereas, if you were to limit a term to perhaps three years you might increase his effectiveness.

Mr. THORSON: If you did that you would not be able to get any proper person to serve.

The CHAIRMAN: That is one thing. I am told it takes about a year for a man to be broken in.

Mr. MUTCH: On the salaries they pay you could get plenty of good men to take on the work for as short a period as six weeks if you wanted to.

*By Mr. MacNeil:*

Q. Is it the intent that the set up proposed shall apply to entitlement only, or to entitlement and assessment of disability?—A. I am suggesting no change in the procedure of assessment.

*By Mr. Thorson:*

Q. You consider assessment to be an administrative function?—A. I have given up hope of getting it. We have been after it now for nearly twenty years and I doubt if we could get it at this stage of the game. I thought when coming down here that possibly I would not get very far if I were to suggest anything that was going to cost the country a lot of money.

Q. The judicial officer should have a staff of assessors with him to aid him in the assessment of entitlement?—A. It could all be worked out. It has been a subject of great difficulty. I am not suggesting any elaborate detail.

Witness retired.

The CHAIRMAN: What is your next point?

COLONEL PHILP: I am going to ask Mr. T. C. Lapp to bring before your attention some discussion of some of the amendments proposed.

The CHAIRMAN: We will adjourn until 4 o'clock this afternoon.

## AFTERNOON SESSION

The committee resumed at 4 o'clock p.m.

The CHAIRMAN: Order, gentlemen. Will you proceed please, Mr. Lapp.

T. C. LAPP, Canadian Corps Association, called:

The WITNESS: My duty is to deal with the Bills that are proposed, particularly with the Pension Act—Bill 26.

[Mr. T. C. Lapp.]

## BILL 26

## AN ACT TO AMEND THE PENSION ACT

While the Canadian Corps Association appreciates that any change in the adjudicatory and administration machinery requires amendment of the Pension Act, it is our considered opinion that alterations of those sections dealing with the right of application and award of pensions are, at least, premature at this time. Changes of method, as on previous occasions, inevitably will involve some disruption of the whole pension process, until the new procedure is established on a working basis. To add to this disruption by changing other provisions, in our opinion, will tend towards confusion.

Furthermore, the restriction of established pension rights has no sound basis in equity. The proposed amendments upon which we make this assertion are as follows:—

*Section 3, subsection 15 (pages 3 and 4)*—Proposing transfer of staff of the Canadian Pension Commission to the Department.

We are given to understand that this change is intended solely for the purpose of facility and economical use of the Commission and Department staffs. We believe that there is a danger of interference with the activities of those engaged in Commission work, and particularly the medical personnel. The chairman should have full control over the staff assigned to the Commission, and should have some power in determining what staff is required.

Might I interject there that there is one instance which came to our attention recently in which a man had been awarded a pension on the ground of having a certain disability. When he went into hospital the departmental doctors said that he had no such disability and that therefore they could not treat him for that disability.

*By the Chairman:*

Q. What happened?—A. I think it was a matter of argument. I did not follow the case through, but they refused anyway to give him treatment for the disability which the Pension Commission said he had and which the department said he did not have. There is in Australia a uniformity of decision on treatment and pension. It all comes under one direction. If we had that I do not think there would be any objection, but under our conditions as they exist at the present time there must be this fear that there will be confusion.

Q. Is not this what the Bill is aiming at?—A. Yes, it is aiming at that.

Q. You are objecting to it?—A. There must be the fear, under our present system with its dual examination, that there might be some divergence of opinion between the departmental doctor called in on a pension case and these other doctors. The idea we have had is that if the minister had control over the assignments of the staff that treatment doctors would be assigned to the Pension Commission and in the department their own doctors would still carry on as at present. We bring that point up not with any idea of stressing it but just to point out the feeling and the reaction of a great many of our departmental doctors under the Pension Commission decisions.

Q. This morning the effect of your representations was that you wanted outside doctors, doctors outside the Pension Commission. I thought your representations were against having this medical personnel from the commission?—A. The idea of the outside doctor was to gain independent opinions in the submission of evidence.

Q. What is the difference? That would add another. As it is now we have treatment doctors; and we have commission doctors; and you would have a third kind of doctors, outside doctors. Can't we get rid of the others; the departmental treatment doctors or the Pension Commission doctors, if we

are going to have outside doctors?—A. I think the whole plan submitted this morning is essentially in line with what Captain Gilman submitted the other day with respect to getting the views of outside doctors.

Sir EUGENE Fiset: A board of consultants.

The WITNESS: Yes. Something of that nature so as to have independent opinion brought to bear on cases instead of the soldier constantly having to depend on departmental opinion.

Mr. MUTCH: Your idea is that that is desirable now, and that he should be paid by the government. That is the change you propose.

The CHAIRMAN: You have that now. In a good many cases the outside doctor is paid by the government, isn't he?

WITNESS: In some cases. I do not think the Veterans' Bureau expenditure was more than \$200 or \$300 in the last two or three years.

The CHAIRMAN: I think the department pays for independent medical opinion quite frequently, or the commission.

WITNESS: The commission does. On occasion they bring in independent advice, usually from their point of view. Colonel Philp had one case in which an independent opinion was brought in to in a sense refute the independent opinion that had been submitted on the case.

The CHAIRMAN: Well, then, in this section 3, sub-section 15, you object to this change simply because you fear something. Is that it?

WITNESS: That is all. We are merely pointing to the danger which we think is involved.

#### *Section 7, (page 6)—Composition of Appeal Division*

If this plan is carried through, we propose that it should be specified that one of the Commissioners of those selected from time to time to serve on the Appeal Division should be a qualified medical practitioner.

Criticism of the Pension Appeal Court, as at present constituted, is premised mainly upon the fact of its exclusively legal composition. The opinion is prevalent that the Court considers appeals almost entirely from the legal aspect; while the foundation and structure of evidence in any pension claim to-day essentially consists of medical testimony.

The CHAIRMAN: The same man did not write this as the one who wrote what was submitted this morning. This morning you wanted all local judges.

WITNESS: You notice we say, if this plan is carried through.

Mr. BETTS: This is dealing with the appeal court?

WITNESS: Yes.

The CHAIRMAN: In the evidence submitted this morning this was objected to. It was all one hundred per cent in favour of having local judges at the county courts. And now they come here this afternoon and say, keep the appeal court.

Mr. BETTS: They apparently differentiate between a court of first instance and an appeal court.

*By Mr. MacNeil:*

Q. Is this an alternative plan?—A. Yes.

Mr. BETTS: You do not hear anything about a county court judge in courts of appeal.

The CHAIRMAN: No. But the principle is the same. You see, they say here, the opinion is prevalent that the court considers appeals almost entirely from the legal aspect. That would seem to destroy the value of what was said this morning, wouldn't it?

[Mr. T. C. Lapp.]



WITNESS: It is based on this fact: That if you reject the idea that we had this morning and carry on with the facilities in bill 26, in the formation of these appeal divisions provision should be made to include a medical member. There are six doctors now in the Pension Commission, and our idea is that at least one of these should sit in each appeal division.

*By Mr. MacNeil:*

Q. Do you favour merging the appeal court with the commission?—A. No, we do not. I think our proposal this morning set forth quite clearly that we believe an appeal body should be quite separate from any administrative functions of the commission.

*By Mr. Mutch:*

Q. Supposing the bill goes through as it is, do you favour leaving the personnel of the present appeal court and employing them on the Pensions Commission?—A. No, for the reason that they are all legal men.

Q. It would be interesting to see how a lawyer would explain some of their opinions?—A. That is what we think.

*By Mr. Brooks:*

Q. Was your idea in that that medical men might give the applicant more benefit of doubt?—A. To get more weight of medical opinion without so much stress on the legal aspect.

The CHAIRMAN: I must confess that I find it hard to follow this argument. We seem to be getting into a terrible jangle. One moment we hear there are not enough doctors and the next that there are too many doctors; then the next thing you know we are told that there are too many lawyers and not enough doctors.

Mr. BROOKS: Of course, there are different views of the whole thing; one is legal and the other medical.

The CHAIRMAN: But we had a strong plea this morning for courts, for the ordinary courts; we were told that our judiciary were perfectly capable of summing up and weighing the evidence and giving a sound decision, as they do in all other cases. Now, it seems they are not.

WITNESS: Well, the whole idea is that if this procedure of amalgamating the two is carried through you have a personnel there which permits of putting in a medical member with a legal member and one other probably on the appeal division. We merely bring these observations to your attention so that they may be available in case you carry through the plan proposed in this bill.

*By Mr. Mutch:*

Q. Are you not just putting in there the proviso that you fear the probability that the present appeal court will become the appeal division? In plain English that is what you fear. If you put a doctor in there you get rid of one of them anyway?—A. That is right.

Mr. MUTCH: That is what I thought.

The CHAIRMAN: You would make a great witness.

WITNESS:

#### *Section 11 (page 8)—Time limits.*

The Canadian Corps Association objects to the imposition of time limits upon applications for pension, and in particular upon any application from a member of the Forces who served in a theatre of actual war.

It can be readily comprehended that practically all the cases of those who served under other than conditions of actual war must have been brought forward ere this time. The process of securing supporting evidence in such cases is comparatively simple. But with the man who served in the battle areas, there are innumerable circumstances which have made it exceedingly difficult to secure evidence in support of his claim. It is a well known fact that little or no record was kept by the unit medical establishments of minor ailments for which men were treated from time to time but remained on duty. These minor ailments were largely due to the conditions of service—mud and water, irregular rest, coarse food, mental stress, etc. From these minor ailments, in many cases, have developed major disabilities through the process of years. Relationship to service must be established largely upon the recollections of those who served with the applicant. With the passing years it has become increasingly difficult to locate these essential witnesses. It would be unfair to impose the further handicap of a time limit when we know that in some cases it has required years to round up sufficient evidence of the nature described.

We feel that in a matter of fifteen years this question of pension claims will be pretty well reduced to a minimum. There will be very few after that, and then they will automatically eliminate themselves; and that, therefore, no time limit is required to put a stop to them.

It might be suggested that by permitting new applications until the first day of January, 1938, sufficient time would be given to make application which, in turn, would give the applicant the right to continue his search for supporting evidence. It is our belief that there are many men today still physically capable of carrying on but who will be forced to make application for pension in later years by the development of war-incurred disabilities. They should always have the right to come forward, whether this year or ten years hence.

*Section 15 (page 9)*—Repealing subsection 8 of Section 25.

*By the Chairman:*

Q. May I just interrupt you there: With regard to the limitation of these provisions, you have no objection to a limitation of the time with respect to persons who served only in Canada and England?—A. No material objection.

Q. Your objection is on behalf of those who served in a theatre of war?—A. Yes, in a theatre of actual war.

The elimination of this Section might very readily be interpreted as denying the right to secure increased assessment where a pensionable disability is proven to have increased in extent. We submit that this section should be retained as a safeguard of existing rights.

*Section 17 (page 10)*—Retroactive awards.

As a matter of right we believe that any applicant whose right to pension is conceded should be paid the full amount of the pension he would have received from the date upon which it is accepted that his disability should have been subject to pension. We suggest, however, that retroactive payments should be subject to the new provision as set forth in Section 13 (page 8) of the amending Bill, but extended to include the recovery therefrom also of any moneys disbursed by municipal, provincial, or federal authorities to the applicant for relief during the period in which he should have been pensioned.

We have a precedent, inasmuch as the government recently paid out \$6,000,000 retroactively in a wheat bonus.

The CHAIRMAN: Did they? I hadn't heard of that. One would almost think you had been to Quebec recently.

[Mr. T. C. Lapp.]

WITNESS: I am learning.

The CHAIRMAN: The last part of that paragraph about retroactive awards is pretty well provided for. They do recover in so far as federal monies are concerned. But what you are asking is that we should go after municipal and provincial relief too.

WITNESS: We believe that would take care of a good many of these cases, because quite often they receive retroactive pensions. We believe the same economy would be effected by simply recovering anything that has been paid by way of relief for the period in which the retroactive pension is paid.

The CHAIRMAN: We do that in so far as the federal government is concerned.

Mr. MUTCH: It is just another case of the federal government finding more money for the municipalities.

The CHAIRMAN: I do not think we should be so very keen on that. In so far as that section is concerned, in the case of any monies paid to an applicant by our own relief goes we get that back. As a matter of practice I have not heard that we were doing anything to collect for the municipalities and the provinces.

WITNESS: Yes, any moneys they received during that period.

In any event there should be some provision to take care of cases in which unnecessary hardship would result from an arbitrary restriction of retroactive pension payments.

*By the Chairman:*

Q. On that particular point it was suggested here that some modification is to be made in the proposed Act whereby a man who has incurred out-of-pocket expenses might be reimbursed up to a certain limit. Would that be satisfactory to you?—A. We have that in mind. We are thinking of a man who over a period of years has had to have private medical aid.

Q. I think Mr. Gilman suggested that?—A. I think that is the point we were trying to get at.

Section 18 reads:—

Section 18 (page 11)—Widows of pensioners of 80 per cent or more.

The Canadian Corps Association is in agreement with the proposal of the Amputations' Association of the Great War, and the Sir Arthur Pearson Club for Blinded Sailors and Soldiers, that the widows of men pensioned at 50 per cent or more should receive dependents pension as of right upon the death of the pensioner, regardless of the cause of death.

We can see no valid reason for altering "from the date of application" to "the date of award" as the commencement of payment in such cases, or in the provision of Section 19 (page 11)."

The feeling is that if there is a change there, a man is penalized if the decision is delayed in any way.

Section 21 reads:—

Section 21 (page 12)—Renewal of application

The deletions proposed by this section would restrict the right of application and seriously interfere with the applicant's chances of eventually succeeding in proving his claim. We propose that Section 52 of the Pension Act be left unaltered.

The CHAIRMAN: That is the same story.

WITNESS: Section 23 reads:—

Section 23 (page 13)—Witnesses on behalf of applicant.

The addition proposed in this section would place the applicant in a position analogous with that of the prosecution having to go to the defence to gain consent for the calling of witnesses on his behalf. Under



our proposal for change in status of the Veterans' Bureau we suggest that the right of calling witnesses on behalf of applicants should be vested in the Bureau."

Section 26 reads:—

Section 26 (pages 14, 15, 16, 17).

In conformity with our previous suggestion, any amendment of Section 67 (1) of the Act should include the proviso that one member of the Appeal Division quorum be a qualified medical practitioner.

In the proposed amendment to Section 68 (1) we suggest the words "by affidavit, or by deposition" should be deleted. By such a requirement a further handicap would be placed on the applicant in securing competent independent medical opinion. It is generally accepted that a signed statement by such a competent authority is sufficient as evidence.

In the proposed amendment to section 72, limiting those who shall have access to departmental files and records, we have previously suggested that the desired safeguard could be effected by vesting in the Veterans' Bureau authority to designate those who shall have access to files for purposes of preparing claims. In any event we believe that the Minister, and not the Department, should have the right of designating those who may be permitted to have access to departmental records.

The CHAIRMAN: If you put "Minister" in the Act it only means he gets more grief, that is all; it does not make any difference whether you put "Minister" or "Department." The Minister signs any regulations.

WITNESS: Then:—

#### *Other Pension Act Suggestions*

(1) *Clause 73*—The Benefit of the Doubt.

The Canadian Corps Association proposes that section 73 be amended to the following effect (the underlined words constitute the change proposed):—

73. Notwithstanding anything in this Act, on any application for pension the applicant shall be entitled to the benefit of the doubt, which shall mean that it shall not be necessary for him to adduce conclusive proof of his right to the pension applied for, but the body adjudicating on the claim shall be entitled to draw and shall draw from all the circumstances of the case. . . .

This is the interjection:—

. . . including the character and extent of the applicant's service with the forces when such service has been in a theatre of actual war. . . .

That is to give emphasis to consideration of actual war service. Then:—

. . . from the evidence adduced and medical opinions, all reasonable inferences in favour of the applicant.

*By Mr. Thorson:*

Q. What does that add, in reality, to the present section?—A. It gives some weight or emphasis to the man's services in the theatre of war.

*By Mr. Reid:*

Q. Are you suggesting that that has not been taken into consideration?—A. We believe it has. In fact, there are so very few cases to which consideration has been given under this section that we feel those factors have been disregarded.

Q. They might say that the benefit of the doubt was to go to those who served in the actual theatre of war and not to anybody else. Would you be afraid of that?

[Mr. T. C. Lapp.]

(No response.)

The CHAIRMAN: Yes, you would bar dependents from the benefit of the doubt.

Mr. THORSON: Surely you are safer in the language as it exists, to draw from all the circumstances of the case, than you would be if that were added.

The CHAIRMAN: I feel that you would really bar dependents from whatever benefit the benefit of the doubt gives to them.

Mr. CLEAVER: You had better withdraw that. That cuts down the section.

WITNESS: Here we have an illustration of what we are dealing with:—

We are fully aware of the intention of Parliament when section 73 was introduced into the Pension Act, and also have knowledge of the controversy regarding its application, but we are confident that if the spirit of this measure could be accepted as a guide, and not a strictly legal estimation, it would do away with much of the difficulty arising to-day.

We have had a particularly striking instance come to our attention of the need for a broader interpretation of the benefit-of-the-doubt. A former field battery officer informs us that several men who served under his command are now in various stages of deafness. They suffered the common affliction of gunners known as "gun deafness" on service, but apparently recovered and for several years experienced no noticeable difficulty and consequently did not seek treatment or pension. Now when the condition has developed they can adduce no evidence to span the long intervening period. But it is a reasonable assumption that if they suffered gun deafness on service, and had no previous history of deafness, that the present condition must be a direct outcome of the supposedly temporary affliction during service.

*By Mr. Mutch:*

Q. Have you had any medical opinion on that?—A. Not in that particular instance, excepting that a number of these men have applied for pension and have been turned down on the basis that there was absolutely no history since the war of any condition of deafness. In one case I think they described it as a congenital condition; there had been somebody in the family away back three or four generations who was deaf.

Mr. MUTCH: Family records must have been very complete in this country.

*By Mr MacNeil:*

Q. Have you had no doctors on these cases of deafness?—A. Yes. I think in one case cited to us there were two or three independent opinions placed before the quorum which apparently did not have much weight.

Q. Favourable to the applicant?—A. Yes, merely a stated opinion and not based on evidence.

*By Sir Eugene Fiset:*

Q. Was it based on actual examination?—A. On the present condition, merely relating to the present condition, which was admitted. The opinions were that it probably did arise on service. Then:—

(2) We are in agreement with the proposal of the Canadian Legion that Section 19 of the Act should be amended to provide for continuation of allowances for housekeepers or wives, in cases where entitlement to such allowances originated prior to May 1st, 1933.

(3) We are in agreement with the proposal of the Canadian Legion for the correction of the situation which has developed under Section 12 (c) covering the award of pension to widows in the circumstances set forth. (See Canadian Legion printed memorandum section 4, page 2.)

*By Mr. Green:*

Q. In reference to what?—A. Venereal disease cases. There is one matter not in the brief which has been brought to our attention. We have endeavoured to study it merely to present it and ask you to have some further investigation made, and that is with reference to prisoners of war. They have an Association in Toronto composed of some 1,500 to 2,000 men still left who are as yet in a really bad condition. I have seen quite a number of these men and very few are normal for their ages. They have no medical history. There is nothing to show the relationship of their disabilities to their war service, and they believe that they are entitled to some consideration in the way of pension or in the way of compensation. These cases have been up before the Repatriation Commission. I will file this statement, if I may, so that it may be written into the record of the proceedings.

The CHAIRMAN: We have a member of the Committee who is one of those fellows to whom you refer.

Mr. STREIGHT: I was very much amused at that statement by the witness about how few of us are mentally normal!

The CHAIRMAN: Do you represent your comrades?

Mr. STREIGHT: I may say that I was there for three years, and I concur in what the witness has said, that very few of those fellows had a square deal. They had no records. In fact, there was no medical service over there. If you were sick you were sick and just rotted away and pegged out, or pulled through. In the few cases where they received some medical attention there were no records kept. Those chaps came home without any medical history behind them, and they are not getting a square deal. The fact that there were 5,000 Canadian prisoners and there are only 1,500 left shows the condition. That is a high percentage, 1,500 out of 5,000. It shows that they are dropping off one after another, and they have never had a square deal, and nobody has taken any interest in them. I think it is about time that those prisoners of war were getting a square deal.

The CHAIRMAN: Their cases were put before the Reparations Commission on two occasions.

Mr. STREIGHT: Yes. That Reparations business has to come up again. I understand that money was received from Germany for the prisoners of war in civilian prisons. I understand that \$8,500,000 was paid to civilian prisoners.

The CHAIRMAN: No. A large proportion of that sum, if I remember rightly, was paid for property damage. I do not know how much the civilian prisoners received, but it was not \$8,500,000.

Mr. STREIGHT: The Commission was dismissed, and when the prisoners of war took it up again when Mr. Bennett was in power he said: "In order to question these fellows a bit we will have another Commission," and they went over this country from the Atlantic to the Pacific and paid \$500 here and there.

The CHAIRMAN: Some received some award.

Mr. STREIGHT: Yes, some received as high as \$15,000 and \$20,000.

The CHAIRMAN: Prisoners of war?

Mr. STREIGHT: Yes. Mr. Beland, a member of Parliament, received \$25,000 from the Reparations Commission.

The CHAIRMAN: Or was it voted by Parliament specially?

Mr. STREIGHT: No, from the Reparations Commission. And some poor prisoners never got a cent! To get rid of it quietly they formed this Commission under the Bennett regime and they paid them \$500 here and there, when they should have received \$5,000. I understand there was \$20,000,000 received by

[Mr. T. C. Lapp.]



Canada for reparations to prisoners of war and for damages, and there has been only about \$10,000,000 of it expended. I would like to know where the rest of it went to.

Mr. REID: I think the matter should be looked into, because when I looked into it I was told there was no money at all and that Canada had paid out \$100,000,000 or so.

Mr. STREIGHT: Where did they pay the \$100,000,000?

The CHAIRMAN: There was not \$100,000,000 paid out. I think Colonel Streight's figure is closer to it.

Mr. STREIGHT: Only half of that amount has been paid out.

The CHAIRMAN: We understand that we are supposed to consider the prisoners of war and make recommendations with respect to them.

Mr. STREIGHT: Yes.

The CHAIRMAN: I think Mr. Mutch has something to say about that.

Mr. MUTCH: No. I think it should be considered.

The CHAIRMAN: The question is now raised.

The WITNESS: This statement will be extended in the record of the proceedings:—

#### *Re—Prisoners of War*

When the Treaty of Versailles was signed, each Dominion signed its own separate Treaty. Britain, in signing, stipulated certain conditions obligating the government of Germany to pay compensation to the British government for maltreatment of Britain's nationals. Canada when signing her Treaty stated: "The government of Canada freely forgives the government of Germany of reparations due to the Canadian government, but insists that the German government compensate Canadian citizens for illegal damage and mal-treatment to both civilian and military."

Germany instituted periodical payments on account to Britain and also to Canada. Britain received her reparation payments and absorbed them into her treasury. The government of Canada, having stipulated that she freely forgave Germany of any damages due to the Canadian government, recognized that with regard to these payments, she held a different status to that enjoyed by Britain, and acting as Custodian she placed the payments received from Germany, into a separate fund, earmarked "Reparations for Canadian citizens." A Reparation Commission was formed and claims were heard.

Unfortunately the ex-prisoners-of-war, except for about a dozen cases, were not aware they were entitled to make a claim. The claimants were mostly civilian cases and awards up to \$60,000 were made to individual civilians, the government accepting the onus of proof. Of approximately a dozen ex-prisoner-of-war claims, ninety per cent received awards up to \$15,000. Later a second commission was formed. Again only a few ex-prisoners-of-war were aware of the situation; again awards were made on a similar generous basis.

The Imperial ex-prisoners-of-war petitioned the Imperial government to grant them a similar hearing and the case was taken to the Privy Council. The Privy Council ruled that the Imperial government was sole owner of Reparation payments and that Imperial ex-prisoners-of-war were to be given special consideration in respect to pensions. The Imperial government in signing the Treaty of Versailles had stipulated that Reparations belonged to her.

The Canadian government quoting this Privy Council ruling, stated that the government of Canada owned reparations payments and at once absorbed the fund of approximately twenty millions of dollars into the Consolidated Revenue Fund, despite the fact that Canada had signed to different conditions, and had specified that the government of Canada freely forgave the government of Germany of any Reparations owing to the Government of Canada.

Our comrades may now understand that ex-prisoners-of-war were not trying to chisel special considerations which would come from the taxpayers' pockets but only wished to present claims the same as civilians. The civilian claims were now practically finished and when the ex-prisoners-of-war as a body petitioned for a Commission to hear their claims, the then Secretary of State quoted the Privy Council ruling regarding Imperial status, and stated that therefore Canada enjoyed a similar status, and that any payment further on Reparation claims was a direct charge on the taxpayers of Canada.

At last the McDougal Commission was appointed to hear ex-prisoners-of-war claims, and awards were defined as *On Compassionate Grounds Only*. Seventy-five per cent of the claims were turned down, owing to the ex-prisoners having to bear the Onus of Proof. The remaining twenty-five per cent were awarded on a basis of \$500 only, where previous commissions had awarded on a basis of \$5,000.

A number of claims were later presented for a new commission, which was refused, on the grounds that there was no longer any Reparation funds, and resulted in a number of ex-prisoners being refused the same privilege of a hearing as accorded to previous civilian claimants. Also a number of claims which had been refused owing to lack of evidence were refused the right to present additional evidence. We were advised that our cases would be looked after by applying for a pension.

A fact which many have overlooked is that ex-prisoners-of-war have no medical history during the period of their captivity, for periods of up to three and a half years. The majority of these ex-prisoners are the rear guards of the gas attack at St. Julien and their experience was lack of medical treatment in Germany, starvation and brutal treatment, ill-clothed, forced to do heavy manual labour, despite their physical condition.

The government states that whenever a prisoner-of-war applies for a pension he is given every consideration and preference and whenever possible a pension is granted. Our experiences are quite to the contrary. Owing to our lack of medical history the Pension Board refuses to recognize our disabilities, or if they do acknowledge the disabilities, they claim them to be either pre-war or post-war—despite Dr. Cathcart's review in report of 'Maltreatment of Prisoners-of-war.'

Dr. Cathcart's report states disabilities common to all Canadian ex-prisoners-of-war are: Mental conditions, gastro-intestinal symptoms, chronic pharyngitis, bronchitis, reduced resistance to infection, nervous complaints, insomnia, skin diseases, arthritis, nephritis and sterility, etc., all of these caused by living conditions during captivity and maltreatment. Our experience with Pension Boards is that they refuse to recognize these conditions or owing to our lack of medical history, assign them as either pre-war or post-war causes.

The righting of these wrongs would not be such a tremendous drain on the resources of the country in view of our small remaining number. According to War Records, approximately 5,000 Canadians were captured; about 2,000 died in Germany, and of the 3,000 Repatriated only about 1,500 are now living. Many dying in misery and want, some by their own hand, being mentally deranged owing to their terrible experiences and

hardships. We strive to alleviate as much suffering as possible among our remaining comrades, but only an ex-prisoner-of-war can really appreciate the condition of these unfortunate comrades, whose will-power was systematically destroyed by the German government.

We feel front-line soldiers are entitled to treatment at least as sympathetic as civilians, the civilians were accorded a sympathetic hearing with the government bearing the onus of proof. We were accorded a hearing On Compassionate Grounds Only and we bore the Onus of Proof.

Officers of the Prisoners-of-War Association are: president, Horace Pickering; vice-president, Robert Green; treasurer, Harry Stone; secretary, W. H. Ashford; executive committee: J. Kennedy, F. Nicholson, F. Noxon, R. Kay, Chas. Gordon.

*By Mr. Green:*

Q. Have you any suggestion as to how they can be cared for in the Pensions scheme?—A. We have not had time to go into it deeply, but we feel that some provision should be made for the examination of these men with no retroactive pension to be paid in case they are accepted as eligible for entitlement.

The CHAIRMAN: They can claim like an ordinary soldier, but they cannot get evidence.

Mr. STREIGHT: No.

The CHAIRMAN: We might be able to get from somebody in the department the number of prisoners of war who have actually been awarded pensions. Could you get that information, Mr. Dickson?

Mr. DICKSON: Probably, sir.

Mr. Mutch: You might also find out how many the Appeal Court turned down.

Mr. STREIGHT: I would like to know where the rest of that \$20,000,000 of reparations money went.

The CHAIRMAN: Proceed, witness.

The WITNESS: Our final observation on pensions is this:—

It is the general impression that the Government has been motivated by reasons of economy in proposing certain of the restrictive amendments as contained in Bill 26. The Canadian Corps Association is not unmindful of the necessity for economy, but we believe that the care of the disabled and the dependent is a prior obligation of the state. We would observe, also, that in awarding and paying pensions to those justly entitled, in many instances the national commitment is but transferred to its proper category. It is our opinion that true economy in pension matters would consist of taking every possible step to facilitate the placing on pension of all those justly entitled.

Then:—

#### *Income Tax on Pensions*

In 1933 the Income War Tax Act was amended by striking out the following exemption:—

(1) Any pension granted to any member of His Majesty's military, naval or air forces or to any member of the military, naval or air forces of His Majesty's allies for any disability suffered by the pensioner while serving in any of His Majesty's forces or in the forces of His Majesty's allies during the war that began in



August, one thousand nine hundred and fourteen, and any pension granted to any dependent relative of any person who was killed or suffered any disability while serving in the said forces in the said war.

We propose that this clause be re-inserted in the Income War Tax Act. While the numbers affected are not large, we believe that the principle of taxing pensions is wrong, and as far as we can ascertain this is not done in any other country.

*By the Chairman:*

Q. Would you add that persons drawing Imperial pensions are not taxed on their pensions, but we are?—A. That is one of the complaints.

Q. Have you ever found out how much the Government actually receives in that way?—A. I understand it is about \$24,000 or \$25,000 a year. Then:—

### *Hospital and Treatment Regulations*

Under Order in Council P.C. 91 which became effective on March 31, 1936, extensive changes were effected in the regulations governing hospitalization and related matters under the direction of the Department of Pensions and National Health. Owing to difficulty in securing copies of the new regulations the Canadian Corps Association has not had sufficient time to study and measure the effect of the changes.

*By the Chairman:*

Q. Nobody refused to give you copies of the regulations?—A. We did not receive them in time.

Q. Did you ask for them?—A. Yes, we sought them and there were no copies available at the time. Then:—

We understand that the Army and Navy Veterans in Canada have made certain observations to your committee, following a careful study of the regulations. Subject to supplementary representations (if such are considered necessary by our association) we accept the guidance of the Army and Navy Veterans in Canada in this respect.

Lieut.-Col. G. R. PHILP, M.D., recalled:

The WITNESS:

### *War Veterans' Allowance*

*Re Bill 27*

We are aware that the Veterans' Allowance Act has proved to be a very satisfactory piece of legislation and has therefore justified its existence. When it was initiated five years ago, the estimated expenditure for the year 1935 was over-estimated as we find the actual expenditure for that year has turned out to be about two million dollars, which is about one-half of the estimated cost for that year. We agree that the alterations in the Act are in the right direction, and that it is providing for men, who, if they did not come under the War Veterans' Allowance, would have to be provided for through other channels, which would mean in the last analysis, that these moneys would come out of the public treasury. We are agreeable to the age being brought down to 55 years for those who are incapacitated by reason of permanent disabilities, pre-aging and general unfitness. We believe also that ultimately in order to remove this unemployable group from the labour market, it will probably be found out that it will be more economical for the Government to ultimately reduce or eliminate that age limit. We believe that this Act should give special consideration to a veteran who served in an active theatre of war.

[Lieutenant Colonel G. R. Philp.]

*By the Chairman:*

Q. In that last paragraph he is the only veteran who gets any consideration under this Act?— (No response)

*By Mr. Brooks:*

Q. How about some men 50 years old being incapacitated through general disability?—A. I understand there is some provision made in the War Veterans' Allowance Act. The following sentence will give our thought in that regard: In reference to Bill 28. The Veterans' Assistance Commission Act, we have no observations to make, and we sincerely hope in the working out of this Act that it will realize its expectations.

*By the Chairman:*

Q. Is that a doubt or a hope?—A. We hope. Now, Mr. Chairman and gentlemen, we, as the representatives of the Canadian Corps Association of Ontario are very grateful to you for your courteous hearing. We acknowledge that we are somewhat amateurish in this work. We frankly tell you that we have no axe to grind. We are not job-seekers, but we are very honestly desirous of helping in the solution of the problems of the returned soldiers.

Thank you, Mr. Chairman.

*By Mr. MacNeil:*

Q. May I ask Col. Philp if he has had any experience of the application of Clause (b) of Section 11 (1) of the Pension Act?— (No response).

*By Mr. Thorson:*

Q. Re pre-enlistment disability, in referring to the cases of these men who served in the actual theatre of war and suffered from say otitis media, it has been held by Departmental medical authority that the disability originated in childhood. In the absence of definite evidence of an ear condition prior to enlistment is that a reasonable conjecture to make, from the standpoint of medical opinion?—A. Of course, when the men went overseas those who got to France were essentially in the category A-No. 1. They were supposed to be fit. It was not recorded on their history sheet that they had any pre-enlistment disability.

Sir EUGENE Fiset: The examination that took place before the enlistment did not contemplate that affection of the ear or otitis media, and there is no trace or record of that. On the other hand, otitis media, as Colonel Philps knows, is a new thing.

*By Mr. MacNeil:*

Q. Have you had any cases under your observation where decisions of this nature were rendered?—A. I argued out a case of a man who was accepted as fit for service and served in France. He was in a collapsed trench and appeared to be injured after some months and was treated in some hospitals, and came back to Canada a wreck after that. He had a great deal of difficulty because the Wasserman test gave a positive Wasserman, and he died ultimately of an enlarged spleen and enlarged liver. We were endeavouring at the time to get some pension for his widow, but could not succeed. They said it was a pre-enlistment disability. His wife told me he was perfectly healthy. He was a stonemason who worked constantly for twelve or more years before he went overseas. We had all kinds of affidavits in reference to it. Pre-enlistment disability is a very difficult problem.

Sir EUGENE Fiset: Colonel Philps will admit that he will not find three doctors who will agree. I am one of them.

*By Mr. MacNeil:*

Q. We have had certain types of cases brought to the attention of the Committee of mentally disturbed pensioners, where it was held that portion of the disability was of constitutional origin with neurosis imposed during service, and that the soldier consequently was entitled only to pension for the aggravation of his disability and not for that part attributed to constitutional origin?—A. I think it is conceded now that mental illness is the same as any other kind of illness. I am thinking of an officer who earned a good income before the war and was employed all the time. He was in a Manitoba unit. He got a tremendous shock in the front line when a comrade of his had his head blown off. Ever since coming back he has worked only about three months out of each year and is now more or less useless, a nervous wreck. He is trying to get pension, and he is having a lot of trouble.

*By the Chairman:*

Q. On the grounds that it is constitutional?—A. Yes, on the ground that it is not due to war service. I think it has been mentioned before that in certain types of cases the Commission might get very valuable advice from a Board of Consultants on nervous diseases and diseases of the heart going into the question thoroughly to find if they cannot get a Table of Assessment for this type of cases.

SIR EUGENE FISET: I agree with that entirely. You have exactly the same thing in tuberculosis cases, and they have extremely good results from establishing a Board of Consultants of that kind. I think you would obtain a tremendous amount of valuable information from such a board if they were to meet. They have established some classes of cases brought before them. They dealt with special classes, not specific cases, and then they were able to give great enlightenment to both the Commission and the Department.

THE CHAIRMAN: What diseases would you treat in that way?

MR. THORSON: They would have to have particular cases before them by way of illustration.

MR. MUTCH: They would be treated as type cases.

*By the Chairman:*

Q. What diseases would you suggest?—A. Nerves, heart, kidneys.

SIR EUGENE FISET: Other witnesses mentioned mental diseases and diseases of insidious origin.

MR. THORSON: Neurasthenia and diseases of insidious onset.

*By Mr. MacNeil:*

Q. It was never the intention of Parliament to pension a man for pre-enlistment disability obviously present at the time of birth, but this particular clause is now being interpreted to exclude those whose disability it is conjectured or supposed originated at birth. Mental condition, they say, must have been of congenital origin, although there is no actual evidence. As to otitis media, there may be no evidence of its pre-enlistment existence?—A. I again think you should get the soundest information from a Board of Consultants on that point.

MR. THORSON: Before the Committee adjourns I would suggest that the Committee might meet tomorrow in executive session for fifteen minutes in advance of the regular hour.

THE CHAIRMAN: Could you deal with it now?

MR. THORSON: Yes.

THE CHAIRMAN: Then I think we will go into an executive session to deal with the procedure.

The Committee went into executive session at 5.00 o'clock p.m.



















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Canada Pension  
Problems, Special

(SESSION 1936)

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HOUSE OF COMMONS



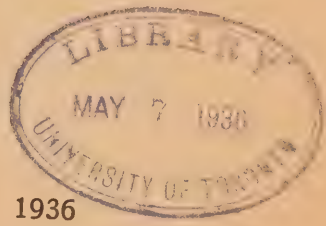
SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 11



WEDNESDAY, APRIL 29, 1936

WITNESS:

Mr. Richard Myers, Honorary Secretary, Amputations Association



## MINUTES OF PROCEEDINGS

APRIL 29, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11.30 o'clock, a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Betts, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Macdonald (*Brantford City*), MacNeil, Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), Streight, and Thorson—19.

Mr. Thorson reported for the Sub-committee on Agenda, and summarized briefs from the following organizations:—

Disabled Veterans' Association, Windsor, Ont.

Canadian War Disability Pensioners' Association, Winnipeg.

The Non-Affiliated Veterans of Canada, Montreal, Que.

The Canadian Order of Empire Ex-Service Men, Toronto, Ont., submitted by H. J. MacLead, Independent Pensions Advocate.

The Disabled Veterans Association, Vancouver, B.C.

Windsor United Veterans' Open Forum, Windsor, Ont.

Veterans of the Inland Water Transport, Royal Engineers.

Mr. Richard Myers, Honorary Secretary of the Amputations Association, was called, examined and retired.

The Brief of the Disabled Veterans' Association of Windsor, Ont., was, on motion, ordered printed as Appendix "A" to the evidence of to-day.

Windsor United Veterans Open Forum brief was, on motion, ordered printed as Appendix "B" to the evidence of to-day.

The committee adjourned at 1.00 p.m., to meet again at 11.00 o'clock, a.m., Thursday, April 30.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

WEDNESDAY, April 29, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11.30 a.m. Hon. C. G. Power, the Chairman, presided.

The CHAIRMAN: Order, please, gentlemen. The first witness this morning, I think, is Mr. Myers, who has asked to be allowed to make a presentation.

Mr. THORSON: I have a few representations to make on behalf of a number of miscellaneous organizations who have written to the committee.

The CHAIRMAN: All right.

Mr. THORSON: Perhaps I could make those first.

The CHAIRMAN: Yes, I think so.

Sir EUGÈNE Fiset: You are not going all through that file, are you?

Mr. THORSON: No, not all of it.

Mr. Chairman and gentlemen, a number of communications have been received from organizations who are not associated with the Canadian Legion or with the other organizations who have appeared before the committee. The view of our subcommittee on agenda was that the representations made by these various organizations might be put on the record through the agency of the subcommittee on agenda.

There is a communication from the Disabled Veterans' Association of Windsor, Ontario. It consists of the representations made by this body to the Hyndman Commission, and this organization has asked that consideration be given by this committee to the representations which that organization made to the Hyndman Commission. I suggest, therefore, that this brief to the Hyndman Commission, which is very short, should be printed as an appendix to to-day's proceedings; if that is the view or wish of the committee, that could be done. I move accordingly.

The CHAIRMAN: All right. It will be printed.

See Appendix A.

Mr. THORSON: Then there is a communication from the Canadian War Disability Pensioners' Association. Earlier in the proceedings before this committee it was decided that various associations who desired to appear before the committee should be invited to submit their briefs, in order that the particular problems which they wished to bring to the attention of the committee might be, in that way, brought before the committee. I met some of the members of this particular organization, the Canadian War Disability Pensioners' Association, during the Easter recess and suggested to them that they should forward to me a brief, which I would present on their behalf to the committee for its consideration. That submission in brief is as follows:

The Canadian War Disability Pensioners' Association is an incorporated body having a fairly large membership in the city of Winnipeg. The Canadian War Disability Pensioners' Association requests that the committee give consideration to the following matters in connection with the Pensions Act. The first submission is in respect of section 11, subsection (b), of the Pensions Act and is to this effect, that pensions should be paid in full to all former members of the forces who served in an actual theatre of war, and that no deduction should be made on account of any disability that existed at the time of enlistment,

with the exception of such cases as where a man enlisted with only one eye or with an amputated finger or with other obvious disabilities. They say, as an illustration of what they have in mind, that where a man enlisted with a moderate degree of flat feet or had a previous history of rheumatism, but the disabilities were not of such an extent as to cause rejection, there should be pension for the full degree of the disability. I assume that that is where the disability has been aggravated as a result of service. There should be no deduction in respect of the disability that was of a pre-enlistment nature.

The next matter which they bring to the attention of the committee relates to our famous section 21. This association desires a definite interpretation of the word "meritorious." In their brief they speak of meritorious service, and then they inquire whether the word "meritorious" is applicable to service. You will remember that section 21 does not speak of meritorious service, but speaks of cases that the commission may consider to be specially meritorious, without defining to what the word "meritorious" applies, whether it applies to service or to other considerations.

This association points out that when applications are made under this meritorious clause at the present time there is no means of knowing the type of evidence to submit or the persons who may be included within the provisions of section 21.

The whole subject of the meritorious section has been under consideration ever since it was included.

The next section of the Pension Act to which this association makes reference is section 73. This association feels that this section is not functioning in the manner in which it was intended to function. They submit that this section was added to the Pension Act so that discretion might be exercised for the benefit of the applicant, and the association requests that the committee make a recommendation on some basis for the application of this section.

The association is of the opinion that the Pension Act in the main is a fair pension act, but that the dissatisfaction which exists is as a result of the interpretation and administration of the clauses of the Pension Act that have been mentioned.

The association also expresses satisfaction with the improvement in the administration of the Pension Act under Mr. Justice Taylor as chairman of the commission and requests that the committee give consideration to bringing in a recommendation whereby Mr. Justice Taylor might be retained as chairman of the commission.

The association also makes certain recommendations with regard to the proposed deadline for applications for pension. With regard to former members of the forces who saw service only in Canada or in England, it is suggested that these members should be given an opportunity to apply for pension provided their application is made before December of 1937. The association expresses the view that it is opposed to any immediate deadline for this class of returned soldier.

With regard to former members of the forces who served in an actual theatre of war, this association is strongly opposed to any deadline being set for applications for pension from such returned soldiers.

The association makes a further suggestion: that this committee should recommend that when an application is made for pension by a former member of the forces who served in an actual theatre of war the attestation paper should be regarded as conclusive as to his condition at the time of enlistment, and that entries on service documents in respect of history of a disabling condition which show a pre-war or pre-enlistment origin and which was not noted on the attestation paper should be disregarded. We have had similar representations made to the committee along the same lines. These are the representations made by this association in respect of the Pension Act.



This association also makes certain recommendations with regard to the War Veterans' Allowance Act. First, that the committee should give consideration to a recommendation that the age qualification of applicants for war veterans' allowance should be reduced to fifty years. The association also recommends that former members of the forces who served in England but not in an actual theatre of war and who are not in receipt of a pension should be made eligible for the war veterans' allowance. In other words, they ask that the benefits of the War Veterans' Allowance Act should be extended to war veterans who saw service in England but did not see service in an actual theatre of war.

The third representation which this association makes in respect of the War Veterans' Allowance Act is that where the total income from the war veterans' allowance and other sources is less than the prevailing relief rate in the district where the recipient of the war veterans' allowance resides the department should be authorized to adjust the difference through its unemployment assistance section. In other words, that the person in receipt of war veterans' allowance should receive at least the relief rate that prevails in the district in which he resides.

They also make this further representation: that provision be made to continue the war veterans' allowance to widows of former members of the forces for a period of not less than ten years, this to include the widows of men who were in receipt of war veterans' allowance, and widows of men who would have been eligible for war veterans' allowance in cases where it is found that the widow is in necessitous circumstances; that claims by widows for this allowance should be accepted within and up to two years after the death of the former member of the forces.

There was some discussion between the representatives of this association and myself on this particular subject when they waited upon me in Winnipeg. I indicated to them what I thought was the principle of the War Veterans' Allowance Act, and that this suggestion of theirs was an extension of the underlying principle. They have made this representation and I am sure that the committee will give consideration to it. These are the representations made with regard to the War Veterans' Allowance Act.

Then they make another representation on the subject of employment. They say that this association has endeavoured during the past three years to obtain employment for its membership through every available source, through private enterprise and through municipal and governmental projects, but with very little success. They say that in view of their own experience the solution of this problem is beyond any recommendation which they are able to offer.

With regard to the subject of rehabilitation, they make a recommendation and say: It is requested that the committee give consideration to bringing in a recommendation to the effect that in cases where it is found after thorough investigation that the former member of the forces has had the necessary experience and is physically capable of establishing himself on a small holding that he should be assisted to the extent of the maximum unemployment assistance, to be allotted as follows: four years' rent allowance to be applied to the purchase of land and buildings; four years' food, fuel and miscellaneous allowance to be applied to the purchase of equipment and necessities, and they suggest that the matter of rehabilitation be supervised by the district administrator of the department.

About two years ago this association had a serious controversy with the department in the matter of relief, and they make a representation with regard to the subject of relief and unemployment assistance. They strongly urge that the committee recommend that the department reinstate the rates of relief in force prior to April, 1932. That is, that single men should receive \$30 per month, married men \$45 per month, a married man with one child \$57 per month,

a married man with two children \$67 per month, and additions in cases where the existing scale of relief is in excess of the above noted scale for families where there are more children. They ask that an allowance be provided for clothing, and that provision be made to supply medicine and medical attention to the dependents of pensioners who are in receipt of unemployment assistance from the Department of Pensions and National Health. That, I believe, is an extension of the present arrangement whereby the pensioner is entitled to treatment but the members of his family are not.

These are the representations made by that particular association. That association is located in Winnipeg.

Then there is a representation from a Montreal association which is called the Non-Affiliated Veterans of Canada. They bring to the attention of the chairman of the committee that at a general meeting of the association held on the 15th of this month, 150 members being present, resolutions were drawn up protesting against the attitude taken by representatives of other soldier organizations.

They point out that their own organization consists of front line veterans only who have seen actual service in France, Belgium, Mesopotamia and elsewhere. They say that they do not wish to be represented by any others than their appointed delegates, but that they are ready to co-operate with all other organizations for the benefit of the front line veteran, and they wish to go on record as being in support of the veterans' age limit being reduced to fifty years for war veterans' allowance purposes.

They also ask that a sufficient allowance be given to the veterans and their families so that they may have a honourable living. They point out that the relief paid to the low-scale pensioner in Montreal and district is utterly inadequate on account of the fact that all commodities are rising in price continually as is also the case with household equipment, such as bedding, etc.; that their household equipment is deteriorating and requires to be replenished and they recommend the 1930 scale of relief allowances or a scale somewhere in that line.

They are in favour of the establishment of an employment commission to assist the veterans in obtaining employment according to their ability and physical condition. They feel strongly that at the present time any veteran with a disability is practically debarred from obtaining employment.

This association objects to the deadline for making application for pensions, and asks that the date for making application for pension be left open indefinitely.

They also ask that the benefit of the doubt clause in the Pension Act, that is, section 73, should be administered more in the interests of the veteran than has been the case in the past.

They particularly ask that the benefit of the doubt should be given to widows who apply for pension in cases where their husbands have died within three years.

They also protest against the deadline for pension applications in the case of widows and dependents.

They also seek assistance from the Federal Government in the matter of payment of water taxes for those veterans who are on federal relief, and point out that the veteran is continually being threatened by the civic authorities in Montreal with the sale of their belongings, I assume, for non-payment of water rates.

They conclude their representations with the statement that their executives will, on request, send a delegation to Ottawa if that is desired, so that that delegation may appear before the committee on returned soldiers' problems.

Our subcommittee on agenda felt that we should, on their behalf, place their representations before the committee so that the committee might be seized of them and that when that had been done it would not be necessary to have any representative of their organization appear before the committee.

The next organization that has made representations to the committee is a Toronto organization, The Canadian Order of Empire Ex-Service Men. This is in the form of a letter from Mr. H. K. McLeod, independent pension advocate of this association. I will try to summarize as well as I can the representations of this organization.

They met on Tuesday the 21st instant and passed a resolution to the effect that they were opposed to the stand taken by the Canadian Legion through one of its representatives with regard to the recovery of relief allowances paid to ex-service men who might be awarded an increase in pension or who might be awarded a retroactive pension. I imagine their complaint is directed to section 13 of Bill 26 which proposes the recovery of amounts previously paid out for relief under certain circumstances. They take the view that this amendment is not in keeping with the view and the opinion of the great body of ex-service men expressed in resolutions and by letter from time to time. They express the view that they are sure that if a vote were taken of the men most concerned the overwhelming opinion would be opposed to the views advanced by the representative of the Canadian Legion when he appeared before the committee.

They also express vigorous opposition to the principle of this amendment and say that it is a departure from the spirit of the Pension Act as set out in section 20, subsection 3 of the Act. That section of the Act is as follows:—

No pension should be assigned, charged, attached, anticipated, commuted or given as security, and the commission may, in its discretion, refuse to recognize any power of attorney granted by a pensioner with reference to the payment of his pension.

Their contention is that this proposed amendment which appears in section 13 of Bill 26 is opposed to the spirit of the section of the Pension Act which I have just read. They say that this amendment is not in keeping with the policy of awarding pensions because of the applicant's lack of power to will or do, and should bear no relationship to his economic necessity to have the necessities of life for his maintenance.

This association is also opposed to the policy that is now being pursued by the Canadian Pension Commission with regard to the administration of a veteran's pension when he has qualified for an award of pension and where there has been an retroactive award and where the man has been unemployed. Their view is, that where a former member of the force is mentally competent he should be given charge of his own pension award to administer it, I assume, as he may deem fit.

They ask that their representations should be submitted for the consideration and attention of this committee.

The chairman of the committee has received a letter from The Disabled Veterans' Association of Vancouver, and I think perhaps I should read the letter. It reads as follows:—

I am formally instructed by resolution endorsed at a general meeting of this association to protest the exclusion of the representatives of disabled veterans' organizations in respect to the personal presentation of evidence before the existing Parliamentary Committee on Pensions and Veterans' Affairs, and make an urgent request that it be arranged that such representatives be given the opportunity to present their views before the business of your committee closes.

It should be pointed out to you that this organization in common with others in Canada, which have not Dominion but operate nevertheless under Provincial Charters, represent a very considerable body of ex-service men. Collectively these organizations are more specifically representative of the pensioned veterans than others which have already



been privileged to present their cases. Consequently they are more generally concerned with such amendments as appear in Bill 26 in its present form or such other amendments as may be the task of the committee before the final submission of this bill to the House.

The point of view of this particular organization is that it is more generally informed on matters affecting the pensioner, and therefore the Pension Act, than those which are presenting the case of the veterans at large; and that there are points in connection with pensioners' affairs which do not of necessity come within the purview of those other organizations; although the latter have admittedly Dominion Charters. Our case, while it might be partly involved in their evidence, is not entirely so.

This fact seems to have been recognized some time ago by the Right Honourable R. B. Bennett, who, I am permitted to state, gave a definite promise that at such time as a parliamentary committee was convened for the consideration of pensions, this association would be allowed to send representatives to give evidence before it at government expense. A review of these contentions on the part of yourself and your committee will be appreciated, and your comments thereon given most respectful consideration.

Yours respectfully,

(Sgd) A. D. DARLINGTON,

*Secretary.*

The committee met yesterday in executive session and felt that all organizations should be treated in exactly the same manner, and as a result of the deliberations of the committee a telegram was sent yesterday to Mr. A. D. Darlington, secretary of the Disabled Veterans' Association. The telegram reads as follows:—

Further reference your letter April 9 special committee Pensions and Returned Soldiers' Problems would be glad to hear representative of your association on same basis as other witnesses. No expenses have been paid for any witnesses and no exception can be made for your association. Suggest your association submit brief of representations to committee as several other associations have done. Committee will give careful consideration to such brief as your association cares to submit.

That was the view of the committee as to the course that should be followed, and that if this association cares to submit a brief the committee will give careful consideration to the brief of that organization.

There is just one other organization to which I should like to refer. The Windsor United Veterans' Open Forum has submitted a brief to the chairman and members of the parliamentary committee on veterans' problems which is rather lengthy and I would suggest that it should be presented to the committee so that it might be available to all the members of the committee when the report of the committee is being considered. Perhaps it might be also printed as an appendix to to-day's proceedings.

(Brief of Windsor United Veterans' Open Forum appears as Appendix B of to-day's proceedings.)

Since it will be printed as an appendix to these proceedings it will not be necessary for me to go over the brief in detail; but I should point out to members of the committee that at the end of the brief there is a complete summary of the suggestions made by this organization. Many of them are of an interesting nature, in view of the representations that have already been made to this com-

mittee by various organizations. It will not take me long to deal with these suggestions and I think perhaps I should do so in fairness to this organization.

They make 17 suggestions:—

(1) That all approaches and processes in connection with pension matters should be immediately simplified by the removal of all red tape and barbed wire entanglements.

(2) They consider that the greatest of these entanglements is the federal Pensions Appeal Court, and suggest that it should be dispensed with.

(3) They say that the federal Pensions Appeal Court has been the instrument by which the Canadian Pension Commission has taken considerable advantage in the matter of appealing awards for pension, and that this course was never intended.

(4) They are against the proposed substitution of an appeal court division for an appeal court, and say that it would be nothing less than a continuation of the present unsatisfactory state of conditions; and that this should be avoided at all costs.

(5) They complain that no reasonable attempt has been made in the past for a proper application of section 73 of the Pensions Act. It was presumed by the veteran, when this court was set up, that a reasonable application of section 73 would take place but this has not happened.

(6) They suggest that a general speeding up process should be undertaken by the so-called veterans' bureau; there being no just reason existing for the long delays between the time the case is referred to the bureau and the actual time of hearing, this delay sometimes being two or three years.

(7) They suggest that in order to avoid these long delays more commissioners, advocates and assistant advocates should be appointed without delay; and that men with a full understanding of the veterans' problems and a full knowledge of service conditions in France should be given preference when these appointments are made.

(8) That the "financial bogey" should not be permitted to delay any such action, because the sooner these cases and further cases are disposed of the cheaper it will be for the country in the end in the matter of administration costs.

(9) They suggest that there should be no right of appeal by the Canadian Pension Commission against the decision of a quorum of that commission; that the decision of a quorum of the commission should be final.

(10) That where an application has been refused by the commission the applicant should have the right to advance his case to a quorum without any undue delay.

(11) They suggest that this procedure would eliminate the necessity for any further appeal procedure.

(12) They suggest that there should be no closing date for filing pension claims.

(13) They suggest also that the present system of placing the full onus of proof on the shoulders of the veteran should be reversed and that the onus of proof should be the responsibility of the Canadian Pension Commission to prove that the applicant was not entitled to treatment and pension from the department. I think that members of the committee who served on previous committees will recall that this suggestion was frequently advanced prior to the amendments of 1930.

(14) That where a doctor has given a written statement supported by his evidence under oath and is not able to produce records his evidence should be accepted in favour of the applicant by the commissioners who are hearing the application.

(15) They say that from actual experience in dealing with such matters it is often found that the sincerity of the applicant and his medical men is very much doubted and their evidence not allowed by the commission and by the quorum of the commission hearing the case, due in most cases to the fact that the doctor has destroyed his old records covering the case; that this is not strange in view of the fact that the war ended approximately 18 years ago.

(16) Then, their 16th suggestion involves consideration of Imperial as well as Canadian veterans; and they suggest that whenever the word veteran appears in their representations it should be understood to mean both Imperial and Canadian ex-service men.

And (17) They express the opinion that all the rules and regulations set apart for veterans should also apply to all Imperials who were resident in Canada on January 1, 1936.

These are their concrete suggestions. This organization has sent a further representation, in addition to its letter of April 6th, by a letter dated April 25th which might be treated in the same manner and printed as an appendix along with our previous representations of April 6th.

(This letter appears as part of Appendix B of this day's proceedings.)

This latter letter of April 25th protests against the proposed amendment to section 72. That section has to do with the applicant's file, and access to the file; and they feel that the authority to determine who should have the right to have access to the file should not be confined to the department. If I have not correctly summarized their representations in the matter their point of view will appear fully in their letter addressed to the chairman of the committee under date of April 25th.

These are the various representations that have been made and our sub-committee felt that this was the best manner of dealing with the representations made by the various organizations who have written to the committee asking that their representations be brought to the attention of the committee.

Mr. MACDONALD: I understand there were representations made by an organization, I have forgotten its name, which does not know whether they come under the Imperial regulations, or the Canadian regulations, or just where they belong.

Mr. THORSON: Thank you, Mr. Macdonald. There is one other communication which might also be dealt with, and their case presents a difficult problem.

Mr. REID: Might I ask, for the information of members of the committee, if it is possible to get a list of the different veteran organizations?

The CHAIRMAN: You mean, throughout Canada. I do not think anybody knows that. They are not all incorporated.

Mr. THORSON: There are a tremendous number.

The CHAIRMAN: It was stated here, and I think I made the statement—I got it from somewhere—that there were over 160 veterans' organizations in Toronto alone. I have no means of knowing whether there is any truth in that statement or not. It might be 75 or it might be 200.

Mr. MYERS: I think probably that includes battalion associations.

The CHAIRMAN: You are quite right. Mr. Myers, do you know; you have been travelling around the country a lot on behalf of the blind and the Sir Arthur Pearson Club; do you know approximately how many associations there would be in Canada?



Mr. MYERS: No, sir. I do not.

The CHAIRMAN: Have you any idea?

Mr. MYERS: On the last published list I saw I think there were some 48 which seemed to have some form of charter.

Mr. THORSON: That would be other than battalion organizations?

Mr. MYERS: Yes, other than battalion organizations. As a matter of fact I suppose you could pick up the *Ontario Gazette* week after week and in it see notices of the incorporation of additional battalion associations.

Mr. THORSON: There is another communication, to which Mr. Ross MacDonald directed my attention, that came before our sub-committee. It comes from the veterans of the Inland Water Transport, Royal Engineers.

Mr. GREEN: Is not that matter supposed to be summarized in the mean time? Why bring it up now?

Mr. THORSON: I was just giving the committee information about it. It was the view of our sub-committee that the file on this particular subject would be summarized by one of the members of the committee, and that when that summary had been made their representations in the matter would be brought to the attention of this committee. They feel that they do not know where they stand in the matter of pensions. The sub-committee on agenda, which has the matter in charge, will make further representations to the committee in respect of this matter when the summary has been completed.

Sir EUGÈNE Fiset: Does not the same thing apply to all the briefs which have been submitted to us? I wonder if it would be possible for the clerk to prepare a synopsis of these briefs for our use.

The CHAIRMAN: I think that would be very difficult; and if we are not having these people here to present their own cases, at least we ought to have their written submissions.

Sir EUGÈNE Fiset: I quite understand that; what I have in mind is a summary of what has been submitted by the witnesses themselves, material which covers page after page. We have heard them, but if we had a synopsis prepared showing the main features of the briefs I think it would help us in the preparation of our report.

The CHAIRMAN: The clerk is trying to get at that. I am told that he is preparing an index of the suggestions which have been made. We will try to get that done.

We will now call Mr. Myers.

RICHARD MYERS, Honourary Dominion Secretary, Amputations Association of the Great War, called.

The CHAIRMAN: Mr. Myers is now going to talk on the proposed amalgamation of the Canadian Pension Commission with the Pension Appeal Court.

WITNESS: Mr. Chairman and gentlemen, may I take this opportunity of expressing our sincere appreciation for permission to appear before you this morning as representing the Amputations Association of the Great War, and the Sir Arthur Pearson Club of Blinded Sailors and Soldiers.

My first submission will be in connection with Bill 26, and the amalgamation of the Pension Appeal Court:—

#### BILL 26. TIME LIMITS. SECTION 12—(a) —b)

One of the specific causes of complaint is delay. The practice of many ex-service men to apply for pension on different conditions at different times is in our opinion the main cause of congestion. In other words, the majority of cases waiting to be heard are repeaters.

The present proposals now before you with respect to time limits are not unreasonable, provided that in no case any time limit may be placed on application for pension or adjustment in respect to those who have an assessable or increased disability as a result of injury, disease or aggravation thereof incurred on service in a theatre of war.

In any event we submit that the perpetuation of unrestricted applications as at present obtaining is due for correction at least to the extent of limiting the number of applications which any one claimant may have going to appeal.

That, Mr. Chairman, is our entire submission with respect to the amalgamation of the Pension Appeal Court, and it supplements submissions which have already been made.

Our next point is:—

## BILL 26. AMALGAMATION OF PENSION APPEAL COURT

While we realize that a question has developed with respect to the Pension Appeal Court, we fail to see where any advantage is to be achieved in now reorganizing pension machinery to amalgamate the said Appeal Court with the Canadian Pension Commission.

We are aware of the many investigations into the operation of the Pension Act in past years and of the very brief time at your disposal on this occasion to analyse complaints. We take the liberty of suggesting that all sections of Bill 26 now before you dealing with the amalgamation of the Pension Appeal Court with the Canadian Pension Commission be not proceeded with at this time, but that during the recess of Parliament a full investigation be conducted, the nature of which to be determined by the minister so as to definitely ascertain the defects in the present Pensions Act administration and machinery.

The marked improvement in the administration of the Canadian Pensions Commission since the advent of the present chairman of the commission has been received with favour both in and out of Parliament. It seems to us a question of national importance that personnel eminently fitted to adjudicate on pension matters is by necessity of paramount importance. We are convinced that if a realization of soldier psychology can be incorporated in the administration of pensions most of our troubles in this connection will rapidly disappear.

That, Mr. Chairman, is the extent of our representations with respect to time limits.

*By Mr. MacDonald:*

Q. I do not understand your representation with regard to the time limit. Do you say that the time limit is all right?—A. We say that the time limit is all right. We see no real danger in a time limit, because we think there is sufficient provision there by reason of the suggestions which have been made, and we feel that if at any time a change is required it probably would be made. With a change in the mode of procedure it does not make any real difference whether a time limit is placed of 1937, 1938 or 1941; so long as a man who has a real claim of merit by reason of service in a theatre of war might be given consideration. What it does do, in effect, is to eliminate most of the frivolous cases.

*By Mr. Thorson:*

Q. There would have to be an application for special leave?—A. Yes. The next subject is retroactivation, section 16-17-19-20:—

For many years past the question of limiting the period of payment for back pension has received our attention. We admit in certain cases [Mr. Richard Myers.]

where the disability was not extensive the wisdom of awarding back pension other than on a gradual scale is open to question. On the other hand to place a premium on delay in adjudication is equally unwise. In any event there should not be any interference with fundamental rights or with rights acquired by reason of applications made.

Q. In other words, you say that the provisions with regard to retroactivation should remain as they are?—A. I say yes, they should remain as they are to this extent; there should be no interference with those who have acquired rights by reason of applications already made.

Q. At the present time the right to pension goes back to the date of application?—A. It goes back to that date or discharge.

Q. Or to discharge, one or the other?—A. One or the other, yes, that is correct, sir. There are fundamental rights, you see, of an individual. An individual, once he has made his application, has a fundamental right, and he has a right by statute. To take that away from him, he not being aware of any such suggestion of this character coming forward at the time, does not seem to be quite in order.

Q. What would you say as to the principle that has been put forward, that the purpose of granting a man a pension is to enable him to live or to compensate for a disability that he has suffered; that it is a present compensation and a continuing compensation but that it should not be allowed to pile up in the past?—A. In most of the cases of that character, it is hardly the fault of the individual. We question the wisdom of paying large pensions to men that might just be squandered.

Q. Where would you draw the line?

*By Mr. Mutch:*

Q. If you established the right to get the money, he might say it was none of your business?—A. That is admitted. But we say there should not be any interference.

*By Mr. Thorson:*

Q. Where would you draw the line in the case of a large retroactive award and a comparatively small one?—A. I could not actually draw the line as making a distinction between any award other than the provisions as provided in the Act with respect to application or at the time of application.

*By Mr. Mulock:*

Q. Is your suggestion that this should not apply to all applications now filed?—A. Quite correct.

Q. But that it should apply to applications not filed now?—A. That might be taken under advisement, but in the consideration of the matter consideration must be given to the fundamental rights.

*By Mr. Mutch:*

Q. What are they?—A. I have a couple of cases in mind out of my own experience. Here was a man in the United States who lost a leg, and for some unknown reason he was never dealt with as a disabled soldier. He just went away. He carried on for years. He was in business, but things did not go very well and eventually, about 1930, I think, he thought, I just wonder whether I am entitled to anything for this leg. He wrote a letter to the department and made an enquiry. An investigation was immediately proceeded with, and we were able to identify the man. There was no question about it, and the man received his pension for the loss of his leg from the time of discharge. In a case of that character my own opinion is that I do not think if that man applied



twenty years from now that he should be denied his pension from the time of discharge to the full extent of his disability as it existed all the time.

I have the case of another man, a young Calgary chap, who, as a matter of fact, was born in Prince Edward Island but went to live in Ontario and who subsequently established a claim for total blindness. There was not any question at all that his blindness originated on service, and for years he was totally blind and had to have a guide. He spent every dollar he had in the world trying to regain his sight. There was not any question but that it was related to his service. That was established. And all that man wanted was compensation to the full extent of his disability for the period he was totally blind by reason of his service to the state.

Q. You have not answered Mr. Thorson's question as to whether you consider a pension as compensation or as subsistence?—A. I consider pension as compensation; absolutely.

*By the Chairman:*

Q. In other words, you consider from the moment a man makes application he has an acquired right?—A. He has an acquired right, certainly. I think that is sound in law.

*By Mr. Thorson:*

Q. You will remember our discussions in the committee of 1928?—A. Yes.

Q. I think it was in relation to section 19. It was pointed out that where the disability existed from the time of discharge there was a right to retroactive pension dating back to discharge?—A. Quite.

Q. But that where there was any period from the date of discharge up to a certain date subsequent to discharge and a disability resulted after discharge, then his right to retroactive pension was confined to the date of his application and did not extend to the date of the incurrance of his disability. Do you remember that?—A. I remember it not very clearly, but my answer to that is this—

Q. What I am getting at is this; it was felt by a number of persons who appeared before the committee at that time that the right to retroactive pension should go back to the date of the incurring of the disability?—A. Quite correct.

Q. But under the law as it then was, unless the disability existed at the date of discharge the right to retroactive pension was confined to the date of application?—A. Yes, or six months prior to that. That is correct, and that is the law.

Q. That is the existing law?—A. That is the existing law, and we are not challenging in any way the existing law.

Q. You are not going beyond that?—A. No; that is the statute.

Q. The principle is the same?—A. As a matter of fact, the question does arise as to whether it was in fact correct to have laid down an arbitrary law of that kind. That situation is there, and I am not going beyond the provisions of the laws as they stand.

Q. So that we have in our existing law— —A. An anomaly.

Q. Setting an arbitrary law?—A. Quite so.

*By Mr. Mutch:*

Q. You say, leave it as it is?—A. That is pretty well what it amounts to. I mean, after all is said and done, a most unfortunate situation appears to have developed. It is not perhaps as serious as it might appear in discussion, but when we are questioning the rights of individual persons to compensation, you involve in that not only the question of the pension law but you involve in that the question of the workmen's compensation laws, the question of insurance adjustments and everything else. It is much further reaching than appears on the surface.

[Mr. Richard Myers.]

*By Sir Eugène Fiset:*

Q. You did not say a word about deductions in the case of a man who is retroactivated and certain deductions are made for the amounts he has received either for relief or otherwise?—A. I am not going into that phase of it; others have dealt with it quite extensively.

*By Mr. Reid:*

Q. Would you say that a retroactive pension may or may not affect a judgment?—A. I would not care to express an opinion of that character.

*By Mr. Mutch:*

Q. But you know what the men will say?—A. It may. I have a case in my pocket right here at the moment. I am not going to cite the case at all, but I actually have a waiver from a man to retroactive pension which if I explained to you the type of disability in this particular case you would see there is simply a dispute as to whether certain things happened at the time. But in fairness to this committee, he expressed the opinion that he had read in the press where there was a suggestion being made for the limiting of retroactive pensions, and this individual in Vancouver expresses the opinion that he fears the amount of his retroactive award might interfere with the granting of pension and that he was primarily concerned with the future of his disability.

Mr. THORSON: That is a view that is generally expressed.

Mr. MULOCK: Absolutely.

*By Mr. Thorson:*

Q. Might there not be a benefit to pending applications by removing that particular matter from consideration?—A. I think in weighing the subject under consideration, and having regard to the statute and the administrative qualities of the men concerned, we must go back to the principle as laid down.

*By Mr. Green:*

Q. Otherwise, it is a serious indictment of the men who are handling pension matters?—A. Absolutely.

Mr. THORSON: The indictment has been made.

Mr. MUTCH: It is a very real thing.

The CHAIRMAN: I would not quite put it in that way, Mr. Green. The question is that they claim they are exercising the benefit of the doubt clause, and if they are exercising the benefit of the doubt clause, they hesitate more about so doing.

Mr. GREEN: They are really judging, they are not supposed to be concerned with the amounts.

WITNESS: That is true. As a matter of fact, I might relate to you a little back history. It was always the attitude in dealing with returned soldier problems that the amount of money so involved should not be considered. That was frequently expressed in committee, and certainly has been frequently expressed by officials who administer the Pension Act. For some reason or other, within the last few years—and I think it is the depression—something has happened to us in some way; we are not standing on our feet as we used to stand. I do not know what is the matter with us.

Mr. MUTCH: We are broke.

WITNESS: That is the point. We are broke, and we cannot meet, shall I say it in a mild way, our obligations. However, if we are broke, and we are all broke, we had better all share in the matter.

*By Mr. Green:*

Q. Some witness raised the point the other day that a certain type of case had involved heavy medical expenses, and that there should be special consid-

eration given to the retroactive type of pensions in such cases. I would like to hear what the witness has to say about that?—A. Well, I have not given a great deal of thought to that particular point other than to say this; that if a man was in the position of having to obtain a great deal of medical care and subsequently establishes his claim to pension, that if his application had been in prior to the time he commenced his medical care, not only should consideration be given to his entitlement for pension rights but as to his entitlement for the cost involved in connection with obtaining his pension rights.

*By the Chairman:*

Q. You go beyond the present practice?—A. It is not beyond the present practice, it is a part of the present practice. I mean, it is supposed to be, and I assume that it is. I think it is very, very fair.

*By Mr. MacDonald:*

Q. That would be similar to the case you cited of the man in Ontario?—A. That would be the case of the man in Ontario who I referred to, and there was a tremendous amount involved. As a matter of fact, under the regulations of the department as they existed, there was very little admitted but there was some. There actually was some.

*By Mr. Mutch:*

Q. Your suggestion is that we stay by the Act as it now is as it covers all these cases?—A. Exactly. The next point I wish to deal with comes under the heading of housekeeper's allowances and new wives, etc.:—

The discussion which obtained by reason of the submission of the Canadian Legion on April 2 with respect to a suggested amendment to section 19 (cap. 45-1933) for the continuance of allowances to housekeepers and wives clarified our position in this respect considerably and we concur in the amendment suggested.

There is a definite feeling in the Amputations' Association and the Sir Arthur Pearson Club of Blinded Sailors and Soldiers, that time limits, (May 1, 1933) placed on new wives and children of pensioners is not fair. The view is expressed that the veterans agreed to these limits in order to meet an emergency which had arisen. This emergency they now point out has passed. We suggest that this whole matter now be examined by the committee in the hope that some equitable solution be arrived at.

I was one of those who participated in the negotiations with respect to the difficulties which arose in 1933, and it is amazing that in an organization such as ours, who are all handicapped men—I suppose it should arise that a lot of our chaps, as it happens, are single men, and many were young chaps who went to the war and, from the fact that they received the disabilities of the character they received, were men with front line service; and many of them felt that they were not in a position to marry in the early days and recognized their responsibilities. Some of them are only just getting around to the point where they are considering marriage. As a matter of fact, one very brilliant chap spoke to me just recently, a very fine type of man, and he pointed out the propriety of the whole thing, as to whether or not we were justified in agreeing to the amendment which subsequently was brought down.

I brought that to your attention, Mr. Chairman, and gentlemen, because that feeling undoubtedly exists in the association, and we would appreciate very much if, in your review of this question at the present time in the light of the discussion which has taken place, you would give the matter your earnest consideration.

(Whereupon the committee adjourned until 11.00 a.m., Thursday, April 30, 1936.)







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SESSION 1936  
HOUSE OF COMMONS

SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS



MINUTES OF PROCEEDINGS AND EVIDENCE

No. 12

THURSDAY, APRIL 30, 1936

WITNESS:

Mr. Richard Myers, Honorary Secretary, Amputations Association.





## MINUTES OF PROCEEDINGS

THURSDAY, April 30th, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11.00 o'clock, a.m. In the absence of the Chairman and the Vice-Chairman, the Clerk asked the Committee to elect a chairman pro tem. Mr. Reid moved, seconded by Mr. Mulock, that Mr. Thorson act as Chairman. The motion was carried unanimously, and Mr. Thorson took the Chair.

The following members were present: Messrs. Betts, Brooks, Emmerson, Green, Hamilton, Hartigan, Isnor, Macdonald (Brantford City), MacNeil, McLean (Melfort), Mulock, Mutch, Quelch, Reid, Ross (Middlesex East) and Thorson.—16.

Mr. Richard Myers, Honorary Secretary of the Amputations Association, was recalled and examined. He filed a "Statement and Analysis Affecting Employment of Amputations." Witness retired.

On motion of Mr. Mutch the Committee adjourned at 12.30 p.m., to meet again Friday, May 1st, at 11.00 o'clock, a.m.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS,

Room 497.

April 30, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers Problems met at 11 o'clock, Mr. J. T. Thorson, Chairman *pro tem.*, presiding.

The CHAIRMAN: Did Mr. Myers finish yesterday?

Mr. MYERS: No, sir.

R. MYERS recalled:

The CHAIRMAN: Mr. Myers has something to say with regard to the Veterans' Bureau I believe.

WITNESS: Mr. Chairman and gentlemen: If I might be permitted I will proceed with our submission with respect to the Veterans' Bureau:—

There has been a marked improvement in the preparation of pension claims by the Bureau. The splendid praecis now prepared in our opinion should be made available to the claimant, some time before his case comes to appeal in order that he may examine same and be given the opportunity to state whether he is satisfied and/or to furnish additional evidence. This we believe would give still greater confidence in the Bureau. In this connection the independence of the Veterans' Bureau might reasonably be considered at this time. May I refer you to remarks in this connection on pages 44-45 of the report of the committee appointed in 1933 to investigate into the administration of the Pension Act. We are of the opinion that if a commission was created they could meet for a few days each year, preferably just before the meeting of Parliament in order to study the application of the Pension Act, etc., and to receive consider and advise upon any representations made by veterans' organizations looking towards the enlargement of the general application of the Pension Act and other veteran legislation. We are convinced that the commission would not only provide the means whereby the Government could obtain the best information and the soundest advice upon all matters relating to veterans' problems but would make for greater confidence in the mind of the public.

*By Mr. Green:*

Q. What sort of a commission is that which you refer to?—A. It would be a national voluntary commission of ex-service men appointed either by the minister or perhaps in conjunction with the veteran organizations, who would have statutory authority similar to that of the Railway Commission. That would make the bureau entirely independent of any suggestion that the bureau was interested from the government angle. The reason for this suggestion is that we believe the time has arrived when we should strive towards some finality with respect to veteran matters, and the suggestion we are making is that this commission might form a sort of an advisory commission to the government with respect to matters dealing with returned soldiers. The effect of that

is quite obvious. It would be a body that would be between parliament and the veterans, and at the same time they would receive such information from the veterans that after they had examined into it and they came to the conclusion that certain representations might be made to the government it would seem to us that the government would be in the position of receiving the soundest possible advice in connection with veteran matters.

Q. What would be their relationship to the Veterans' Bureau?—A. They would really control the bureau. The employees of the bureau would act under their jurisdiction.

*By the Chairman:*

Q. Does your organization approve of the suggestion made by the Canadian Corps Association with regard to a Veterans' Bureau?—A. I would say that I have not seen the submission of the corps. In fact, any submission they have made in respect to this matter is an entirely independent one. This submission that we are making was based on resolutions that we passed at our national conventions, and it is brought to the attention of this committee at this time because we think that this point of view should be expressed.

*By Mr. Mulock:*

Q. Mr. Myers, I understand that the Corps Association suggested that the Veterans' Bureau should be entirely separate from the department, and that the men would have more confidence in the treatment that they were receiving if they were made absolutely separate from a government department?—A. Quite so. That is the intention.

Q. That is your intention also?—A. That is exactly the same conclusion. I will say this. Perhaps I should make an observation in this respect. There was no thought in my mind which would entirely eliminate the existing bureau from the angle of the work they are doing. For instance, I do not see present here this morning Mr. Herwig. I have noticed him attending most of these meetings. In his absence I would like to pay him a compliment for the very efficient work that he conducts. I do not think there is a greater authority in this country on Civil Service matters than Mr. Herwig, and it would be a great mistake if his phase of the work were eliminated in any shape or form whatsoever. I think too that if the bureau was set up under an independent commission as suggested that the weaknesses in the bureau at present, with respect to perhaps their authority to obtain medical evidence would have to be enlarged upon. The greatest defect of the present Veterans' Bureau is the fact that they do get additional medical evidence in the first instance, and could go to the commission with perhaps what you might call rebuttal evidence which might already be on file, and in that manner they perhaps are very successful. Now, it does seem to me that whatever weaknesses there may be in the bureau at the present time their experience is valuable and I would suggest that improvements could be made which would make their work more effective. The suggestion with respect to giving the man a copy of his precis is one of soldier psychology. It is our opinion that a man should share some responsibility with respect to his claim. Supposing everything is not made available to him, he is left in the position of being able to criticize, and sometimes unjustly so. The very splendid precis that is now prepared by the Veterans' Bureau might reasonably be handed over to the man who might know just exactly the character of the case that is being put forward on his behalf, and that should go a great ways towards settling in his mind the nature of the evidence that is being brought forward. He would be given an opportunity to answer the precis, so to speak, in order that he will be satisfied before his case is proceeded with as to whether or not all his evidence is in.

[Mr. Richard Myers.]

Inasmuch as we are talking on pension matters perhaps I had better go back to this matter of—

#### CORRECTION IN THE TABLE OF DISABILITIES

After continued representations, going back to the formation of the Amputations' Association the Table of Disabilities was corrected in 1924, bringing the assessment rates payable to amputation cases in conformity with other countries for similar disabilities. May we draw your attention to section 24-1 of the Act:—

Subject to the provisions of section eleven, pensions for disabilities shall, except as provided in subsection three of this section, be awarded or continued in accordance with the extent of the disability resulting from injury or disease or aggravation thereof as the case may be, of the applicant or pensioner.

Our contention is that if a man was disabled to the extent of 100 per cent with a loss of two legs when the table of disabilities was corrected in November, 1924, he was disabled to the same extent at the time of discharge instead of 90 per cent and should be paid at the rate of 100 per cent as representing the full extent of the disability which continued to exist.

Recently we brought this matter to the attention of the Chairman of the Canadian Pension Commission who referred it to the Honourable Minister who kindly suggested that it be brought to the attention of this committee notwithstanding our belief that he is personally opposed to the claim being recognized.

We submit this claim should be adjusted. Recognizing that a substantial amount of money is involved we are ready to negotiate a settlement fair to the state and the man.

Now, most of you I should imagine are not aware of the background behind this suggestion, and perhaps a little explanation would be in order. Immediately after the war was over it was found that in assessing amputation cases that the table of disabilities in Canada was lower for a similar type of disability than that which existed in other countries in so far as the "doubles" were concerned. For instance, there are different types of double amputations; a man might have two legs off, or he might have one arm and one leg off, they would receive 90 per cent disability. Well, every insurance company in the world recognizes and always has recognized that a man with two limbs off is considered for disability purposes 100 per cent disabled; and the same applied in different types of major amputations. The result being that after continued representations and representations to the Royal Commission which reported very favourably on the submissions made, the matter came to the attention of a parliamentary committee, I believe in 1924. That committee appointed a sub-committee of doctors, and these doctors recommended that the table be changed and set down just exactly to what extent the table should be changed as affecting amputations. What actually happened was that their recommendations were something more than we were really asking for. For instance, they said it really made no difference in the case of a man with a leg off above the knee whether his stump was a little shorter or a little longer than in another case, that they were all in the same class; and they recommended the 85 per cent rate as far as amputations were concerned. Actually what happened was that in our negotiations with the commission with respect to getting a possible adjustment we took into consideration the character of the award that had already been made, and perhaps the prejudice (if you like) which had been created by reason of the fact that men with shorter stumps than men with longer stumps felt that they had a greater disability. When the board of Pension Commissioners at that time decided to change the table of disabilities instead of recognizing according to law—accord-



ing to the section—the full extent of the disability they only paid these men from the time that they decided to change the table of disability. The result was that in this adjustment they did not recognize the period from the time of discharge to the time of the correction of the table of disabilities, during which time the full extent of the disability continued to exist. It was nothing more. It was nothing less. It could not be changed. Therefore, if a man was disabled to the extent of 100 per cent in 1924, he must have been disabled to the same extent at the time of discharge.

We have brought this matter to the attention of the commission from time to time. In 1930 we decided that it was desirable not to press the claim at that time for economic reasons; and from a purely patriotic angle we have refrained from pressing this matter. At the last convention of the Amputations' Association of the Great War a resolution was passed requesting that we draw this matter now to the attention of the Canadian Pension Commission. This we did, and the chairman of the commission in turn referred it to the minister. The minister in turn suggested that we bring it to the attention of this committee. That is why it is here. There it is, gentlemen. We believe that we have a very substantial claim. These disabilities represent loss of limbs; or, as one might say, it is the life blood of these men. And, having regard to other adjustments which have been made, there is in our opinion not the slightest doubt as to the equity of this claim. We are not in the habit of making claims to anybody unless they are very sound and have substance in fact.

May I pass on to bill 27, the War Veterans' Allowance Act:—

This Act has been of inestimable benefit to many deserving ex-service men for whom assistance could not be secured by any reasonable means through the Pension Act. Its operation during the past six years has been smooth and practically without question. We realize that with the experience in the application of its provisions now gained that certain amendments may be necessary to facilitate its application and remove ambiguities or inequalities. With such amendments we concur, but we view with concern any amendment which would tend to depart from the governing principle of the original Act and which would radically effect the actuarial estimates of beneficiaries.

*By the Chairman:*

Q. To which amendment do you refer?—A. I refer to the lowering of the age limit.

Q. Is your organization opposed to that?—A. We are opposed to any change in the War Veterans' Allowance Act with respect to age limits.

WITNESS:—

With the industries of Canada and the world experiencing what amounts to industrial revolution due to the rapid strides of scientific development, we cannot see how any administering body or system of local boards can say that a man who cannot be certified as medically unemployable can be declared as industrially unemployable. If in the declaration of his practical unemployability depression or unemployment conditions constitute an important factor, then we are in effect suggesting that War Veterans' Allowance should in addition to the original function intended be now broadened in its application to provide the equivalent of temporary relief. We have already expressed our views as to the disrupting effect of direct Dominion relief to partial pensioners.

The application of War Veterans' Allowance as temporary relief to an additional group would simply remove that group from the realm of any remaining shreds of community responsibility and aggravate the situation already existing. We realize that other representations have been made. We have

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hesitated to take issue in any degree with them. We have, however, felt it to be our duty to point out to you the inevitable difficulties. As veterans and responsible citizens of Canada we could not wish to see the War Veterans' Allowance Act varied to the point where for a largely augmented group of veterans it would simply become a medium for the provision of a Service Dole subject principally to the Means Test.

That is our submission with respect to the War Veterans' Allowance Act.

*By Mr. Betts:*

Q. Before you read that: I do not know that I fully understand your argument. Could you give us a couple of concrete cases as instances of what you are propounding?—A. Well, for instance, a man might be considered industrially unemployable say in the city of Toronto, and yet he might not be industrially unemployable elsewhere; particularly, in the country. I think that is illustrative of one difficulty they are bound immediately to find in the administration of the act; when it comes to the question of whether a man can be certified as industrially unemployable for the requirements of the veterans' allowance. I believe, as a matter of fact, that what is going to happen is simply this; that the difficulties which the Pension board have been experiencing for many years with respect to the many and various qualifications of the Pensions Act are going in a measure to become the exponents of the War Veterans' Allowance Act. We think that with a change of the Act of the nature and extent proposed your troubles are going to commence, that it will just mean the beginning of disputes, and wranglings, and constant turmoil. I know of no man who has made a greater study of this question than has Captain Baker. I don't think there is a veteran in the country who has quite a clear a picture of this matter as Captain Baker, and I would suggest that it might be deemed advisable for this committee to obtain his views. I am sure that if the committee invited Captain Baker to be present he would be glad to attend. He really intended to be here today but unfortunately he is connected with other matters which he could not let go. I am quite satisfied that Captain Baker would be only too glad to be cross-examined on this question of the War Veterans' Allowance Act, and I think it would be desirable from the standpoint of public interest.

Mr. MULOCK: You said, for instance, that a man in the city of Toronto who was considered industrially unemployable might go to the country. Would you tell me what he might be employed at?

Mr. MUTCH: I do not think that was the suggestion. I think what he has in mind is that a man with the same physical disability might be considered industrially unemployable in one place, while if he happened to have his home in some other place that might not be the case.

*By Mr. Mulock:*

Q. You did not say that?—A. I did not say that.

Q. That is the point I am getting at?—A. You would have to make different standards for different parts of the country.

Q. In other words, industrially unemployable does not apply to the country districts. There would have to be other wording—

The CHAIRMAN: In other words, the words "industrially unemployable", would have reference to the place where the man happened to be.

Mr. MUTCH: It would involve discretion on the part of the board, and that would vary according to needs and conditions.

The CHAIRMAN: You mean, that the same physical disability would not be classed as "industrially unemployable" in one place, but would be classed as "industrially unemployable" in a different place.

Mr. MUTCH: It would be a matter of discretion.

WITNESS: Having regard to what is there for him to do.

*By Mr. Macdonald:*

Q. Another witness suggested the same thing. He referred to lumbering in Quebec and he pointed out that a man might not be able to do the work involved in lumbering in Quebec, but that if he were in some other place he might be able to get work? In other words, in the latter case he might be considered as being a 100 per cent fit man?—A. Without the slightest question many difficult cases will arise in the administration of this very fine Act. Which, by the way, I may tell you we were not altogether sold on in the early days when this matter was coming down. And owing to its really first-class administration I just hesitate to see the whole thing just thrown into the melting pot.

*By Mr. Green:*

Q. Your idea is that the difficulties that will arise will out balance the benefits?—A. I haven't the slightest doubt.

*By Mr. MacNeil:*

Q. Do I understand, Mr. Myers, that you recommend no change whatever in the War Veterans' Allowance Act?—A. No; other than those changes which represent ambiguities, or which by reason of experience are deemed advisable from the standpoint of administration.

Q. You admit in your evidence that benefits have accrued to a large number of ex-service men in the age group over 60?—A. Quite so.

Q. If the evidence shows that the age group below 60 includes men who have no hope of re-absorption in gainful employment do you suggest that the benefits of this Act should be withheld from them at this time?—A. That is a pretty hard question, but a very fair question. In the first place the principle under which the War Veterans' Allowance Act was established was on the basis of the burnt-out veteran. That term has gradually disappeared. In the second place, we find that the principles of old age pension legislation have drifted, so to speak, into the War Veterans' Allowance Act, and the veteran is given a handicap by reason of war service to the extent of 10 years.

*By Mr. Betts:*

Q. Before you proceed: I do not understand where the handicap arises?—A. It is a handicap of 10 years.

The CHAIRMAN: He gets that benefit.

WITNESS: He gets a benefit of 10 years.

Mr. BETTS: That is hardly a handicap.

WITNESS: I am not using it in that sense. Perhaps it is the wrong term to use. They are given that benefit, a sort of preference to veterans. That is, for example, to take care of the burn-out condition of the veteran.

In the third place; you go right down the line and any veteran who is certified, whether under the age of 50 or not, as permanently unemployable becomes eligible; so that the act already provides for extreme cases.

*By Mr. Mutch:*

Q. I see it this way; that you are not suggesting any alteration other than what is suggested in bill 27; or would you eliminate some of the provisions in bill 27?—A. I would eliminate the provision with respect to limiting the age to 55. That is a departure from the original principle of the Act, and the radical

[Mr. Richard Myers.]



effect that it will have on the actuarial assessments and beneficiaries—after all, I am merely expressing the view that we do not believe that by opening this door that the best interests of the veterans are to be served.

*By the Chairman:*

Q. Your real reason for that is, I suggest, that you remove these men from the relief lists?—A. I just don't altogether get your point.

Q. Is your contention that if a large number of men are added to the lists of those who are in receipt of war veterans' allowances they are taken away from the field of community responsibility?—A. Exactly.

Q. They would be eligible for relief from the community?—A. What actually happens in our opinion is this—

Mr. BETTS: Mr. Myers, what do you say as to the argument that has been adduced here that war veterans dislike being brigaded with the ordinary relief recipients in the community—

The CHAIRMAN: Quite.

Mr. BETTS: —that they would far sooner get the relief from some other source and without lining up.

The CHAIRMAN: You mean, to get it as a statutory right.

Mr. BETTS: Yes.

*By Mr. Betts:*

Q. What do you think of that?—A. There should be no difficulty in making provision for the veterans across the country to receive their relief without having to line up for it.

Q. Oh, there would be very great difficulty because you are dealing with municipal authorities—

*By the Chairman:*

Q. What I am getting at is, if this is provided to remove the man over 60 from the relief lists through putting him on war veterans allowances why is not the same principle applicable to cases under 60 when they are burnt-out?—A. The answer to that question is obvious: Why have 60 in at all, why make it 40. I mean, the same principle would apply.

The CHAIRMAN: Only if they are burnt-out. If they are burnt-out they come under the War Veterans' Allowance Act.

Mr. MACDONALD: But the witness says, why stop at 55; why stop at 60; why limit it to any age group?

WITNESS: After all, why did this question arise; because there were hardship cases. Is that so?

*By Mr. Green:*

Q. A man over 60 has better rights now than a man of 40?—A. Exactly. He has a better right than a man of 40 because if the basis of need is there he automatically comes on under the 60 year limit. Then there is the question of medical certification, et cetera; plus the character of the board.

Q. You would be against reducing that age from 60 to 50?—A. I would be against any reduction of the age limit at all.

Mr. BETTS: Certain provision is there now, but as I understand the Act there is a certain amount of onus removed from the veteran if he is over 60. The proposed change is to say that the onus will be removed if he is 55.

Mr. MACDONALD: I do not think the Act says that, only in specially meritorious cases.

Mr. BETTS: The man over 60 gets more favourable consideration perhaps than the man who is not over 60.

Mr. MACDONALD: He gets it as a matter of right now if he is over 60.

The CHAIRMAN: If he is in need.

Mr. MACDONALD: If he is indigent.

Mr. GREEN: Do you feel that if war veterans' allowance is extended too much it will interfere with the rights of the pensioners; is that what is back in your mind?

Mr. MUTCH: I think the point is clear now, and the witness might proceed with his evidence.

WITNESS: In answer to your question as to the position of the pensioners, and the best interests of the pensioners: after all, here is the answer to the question, and that is this; this country has only in finality so much money to spend, do you see. Now, the question is how far can you go? If this country is prepared and is in a position to absorb all the responsibilities with respect to the veterans, why then there will not be very much question about this whole matter. The situation as it exists in the country to-day is that the veteran is actually becoming divorced from community responsibility. He is a tax-payer like anybody else. He should be entitled to the privileges, the responsibilities and the benefits that go with being a tax-payer.

*By the Chairman:*

Q. In other words, you think that if he is put on War Veterans' Allowance his chances of getting relief are lessened?—A. He would not get relief. He would not be considered at all, I mean so far as the municipalities are concerned. The whole trend in their policy to-day is to unload everything they can onto the Dominion. Now it is just a question of who will take it over, and so far as the municipalities are concerned the moment a man is known to be a veteran what is the first thing that happens? They ascertain whether or not that man is entitled to some consideration from the Dominion government; and there they leave the whole thing in all cases.

*By Mr. Betts:*

Q. Are you opposed to the practice of paying departmental relief rather than letting a man depend on local relief?—A. Absolutely.

The CHAIRMAN: Yes. That is the point in the submission also.

WITNESS: Absolutely. It was a mistake in the first place.

*By Mr. Mulock:*

Q. Do you think they should get it from the municipalities?—A. I think they should enjoy the full privileges of the municipalities, the same as any citizen in the country. However, I think really the department should be in a much better position to answer these questions than I could.

Q. In other words, in some of the municipalities the veteran is better off receiving relief from the municipality while in other cases they are worse off than they would be under this scheme?—A. That is quite correct.

*By Mr. Mutch:*

Q. On the average they are better off on straight relief?—A. On the average I would say they are better off. I will just give you an illustration: Recently we had occasion to discuss the question of employment with a large industrialist who happens to be a returned soldier, and he said, well if I had two men in front of me who needed a job and one of them had a pension, or was entitled to

[Mr. Richard Myers.]

consideration from some other authority than the local authority, he said, he would be the last person to get that job. I mean, actually that is the case today. That is why a lot of these men are not being absorbed into industry.

*By Mr. Betts:*

Q. You are not favouring stopping pensions?—A. It is a question of the pension there.

The CHAIRMAN: The same principle is there.

WITNESS: Do you know this: That today is practically impossible for a war pensioner to get a job for that very reason.

Mr. MUTCH: With respect to that I would like to say that only yesterday I received a letter from a high official in the Post Office Department to whom I had written on behalf of a man presently employed by the Post Office Department. He had applied for a promotion, and I wrote to ask what was being done with this man's application. The director of postal services in the area in which I was concerned replied to me; he is able to do the job he now has fairly well, and further than that I want to draw to your attention what you probably do not know, that this man is in receipt of a 40 per cent pension and gets along very well at his present job. So you see, even in the Civil Service the fact that a man is a pensioner is taken into consideration in respect to the amount of pay he gets, and the job he holds.

WITNESS: I think it does play a part. As a matter of fact I received a similar letter from a gentleman in this building only the other day.

*By Mr. Green:*

Q. We were dealing with the War Veterans' Allowance Act. Am I fair in saying that the basis for your objection to the further extension of the War Veterans' Allowance Act is that you are afraid that that would interfere with pensions?—A. I would not say wholly that. No, sir. I would not say that at all.

*By the Chairman:*

Q. Would it rather be that you are afraid that it will interfere with his chances of getting municipal relief?—A. I say it actually divorces him from municipal responsibilities.

*By Mr. Green:*

Q. We have had evidence here that a man prefers to get a War Veterans' Allowance rather than relief, even if it is a little less, because it enables him to maintain his standing in the community. Do you agree with that?—A. I do not agree with the point that has been made, that any veteran who will be asked to accept something less than what he has already been receiving—that he is going to be very happy about it.

Q. He does not have to apply for War Veterans' Allowance does he?

The CHAIRMAN: I think Mr. Myers has made his position in the matter fairly clear.

*By Mr. Macdonald:*

Q. You represent the Amputations Association?—A. The Amputations and the Blinded Soldiers.

Q. Is every member of the organization an amputation of some kind?—A. He has a major condition.

Q. Would it be that their pension is such that they do not get assistance from the department?—A. The lowest pensioner in the group—as a matter of



fact, I do not know of a single amputations case who receives any assistance of any kind of that character from the department.

*By Mr. MacNeil:*

Q. You recognize, of course, that so far your submission is in conflict with the evidence which has already been submitted to the committee by other organization?—A. Yes.

Q. Is this endorsed by the Amputations Association at large?—A. As a matter of fact we have had resolutions on that for some years past.

Q. In the age group below 60 you will find very many men who have no hope of regaining satisfactory employment, men who have suffered some impairment by reason of their particular disability and possibly also the greater handicap of the loss of skill through deterioration during periods of enforced idleness, but who cannot qualify under the War Veterans' Act unless it is proven that they are medically disabled for participation for general work on the labour market; and at the present time there is no recognition of the further disability that is imposed upon them on account of the conditions in which they find themselves. Do you suggest they should be refused the benefits of the Act? What alternative have you to suggest for them? Do you relegate them to the tender mercies of the municipality where they would have to go out and work alongside of other able-bodied men to be able to earn whatever measure of relief was coming to them?—A. I think that is a very fair question and one that can be answered by stating that if you reduced the age limit to 50 there would still be hardship cases below that group, and the same thing would apply if you were to reduce the age limit to 40 or anything else.

Q. It is not easy to determine. You see, there is a tendency to recognize that there is a general category which should be taken off the open labour market so that they will be placed in a position where they may more safely plan their future?—A. I would not think the evidence is conclusive in respect to that.

The CHAIRMAN: Are there any further questions to ask this witness on this part of his evidence; or, shall we proceed to the next submission?

WITNESS: Bill 28—unemployment:—

All we had to say with respect to unemployment was said before the Hyndman Commission. I am submitting for the information of the committee copies of briefs submitted. The Minister now proposes Bill 28. The importance of passing some measure to cope with the tragedy of unemployment as facing disabled ex-service men may be illustrated by the statement that in certain parts of Canada unemployment among amputations is as high as 40 per cent. Partial pensions which the vast majority of these men receive, representing cash, in some instances very little higher than departmental relief levels and/or the basis of need as provided for under the War Veterans' Allowance Act.

There was a time when a war pensioner with an obvious disability got the first chance at a job but the reverse is the case these days since an obvious war disability is immediately marked as having a pension and pensioners are the last to be considered. We firmly believe that Government relief to partial pensioners is largely the cause of the failure of private employers, etc., to recognize claims of pensioners when suitable employment is available and this attitude has worked very much to the detriment of obvious disability cases such as amputations.

With respect to this measure I would just file with the committee a copy of the brief which we submitted to the Hyndman Commission, for your information.

*By the Chairman:*

Q. Then, we may take it that your association is opposed to departmental relief?—A. Oh, yes. There is no question about that. None at all.

[Mr. Richard Myers.]

WITNESS: The next section deals with income tax:—

May we be permitted to draw to the attention of the committee the question that income tax is now payable on Canadian war disability pensions. This was imposed under similar conditions and at the same time as time limits on new dependents. Since then some provincial governments have followed the lead given by the Dominion Government in taxing war disability pensions. This was not anticipated. As far as we know, Canada is the only country which taxes a war disability pension. Great Britain does not tax Canadian war disability pensions and vice versa Canada does not tax Imperial war disability pensions.

We respectfully ask the Commission to examine the whole position with a view to adjustment.

*By Mr. MacDonald:*

Q. Do you know how many pensioners are affected by that?—A. Very few, as a matter of fact. I understand that the amount of money involved in the whole thing is around \$25,000.

*By the Chairman:*

Q. That would only be in the case of those receiving the higher scale of pension?—A. Yes, and those with other incomes.

WITNESS: Now, Mr. Chairman, the last statement that I want to make is one which arises by reason of previous discussion in this committee; that is, in connection with widows' pensions. It is a very important submission.

Supplementary statement, widows' pensions—classes 1 to 11:—

On behalf of the Amputations' Association of the Great War and the Sir Arthur Pearson Club of Blinded Sailors and Soldiers, we now beg to present this concluding statement for your consideration.

We have been pleased to come forward in association with other veteran organizations and to appear before you during their presentation. When the Canadian Legion of the British Empire Service League made its presentation at your opening session, Thursday, April 2nd, we were privileged in being permitted to present a special statement on behalf of pensions for widows not as yet provided for in the Pension Act of Canada.

Our presentation at that time stated simply and directly the formal and official conclusions of the Amputations' Association and Blinded Soldiers in their respective national conventions assembled.

Our concluding statement at this time on the subject of widows' pensions in which those we represent have expressed vital concern, is intended to be supplementary to our statement of April 2nd and arises from your expressed desire for definite statistics from the Department of Pensions and National Health which would give a specific basis for consideration for the widows of pensioners in classes 1 to 11, that is 50% or more pensionable disability.

Department of Pensions and National Health statistical information now discloses the following:—

Married pensioners, classes 6 to 11 inclusive, who have died through causes not attributable to service during the period from 1916 to December 31st, 1935.....	360
Number of widows in this group pensioned.....	5
Net number not pensioned.....	355

*By Mr. MacDonald:*

Q. I just want to follow this: That is the number who have died from disease not attributable to service?—A. Injury or disease not attributable to service.

Q. Why would the widows get a pension?—A. They might be under the meritorious section. I cannot answer that question, because I have not the details of these files.

Q. They might be over 80 per cent?—A. These are not over 80 per cent, these are classes 6 to 11. In classes 1 to 5 are cases in which it has already been made. That hardly needs amplifying here.

Q. Yes?—A. Classes 6 to 11—it is a question as to whether or not it should be done. These figures merely deal with classes 6 to 11. In classes 1 to 5 there were only 27 cases that have not been granted pension. In classes 6 to 11 there are 355 cases, and that is in 20 years. So you can see, the vast majority of cases are admitted. And we found that in gunshot wound cases, such as amputations and the like, it is pretty difficult to establish death as being related to military service, by reason of the cause of death.

Q. I can't yet see why 5 widows receive pensions on account of their husbands having died for some cause not attributable to service.

The CHAIRMAN: It might have been determined in each particular case that the husband had died of some cause related to service.

WITNESS: The figures were supplied by the department.

The CHAIRMAN: They are widows of pensioners who are in classes 6 to 11.

Mr. MULOCK: We could get that from the officials.

Mr. MUTCH: There is no conflict there anyway. It simply means people who get pensions ranging between 50 per cent and 80 per cent; and of these there were 5 widows who got pensions.

WITNESS: That is the total in 20 years.

The effect of our request for widows' pensions, classes 6 to 11 under section 32-2 of the Pension Act, would effect not more than 300 of the above group at this time since there would be deductions for the following reasons:—

- (a) Widows who have died or remarried
- (b) Defective marriage contracts, separation, and divorce, etc.
- (c) Marriage since January 1, 1930.

Departmental statistics show 7,918 married pensioners in classes 6 to 11 as at December 31, 1935. For consideration of the widows who may in future become eligible for the widows' pensions under our suggested amendments to section 32-2 of the Pension Act effecting classes 6 to 11 inclusive, the above 7,918 would be subject to the following deductions:—

(a) Deaths due to service.....	65%
(b) Wives who predeceased husbands.....	} 10%
(c) Married since 1930.....	
(d) Divorce, separation, withdrawal of support, etc.....	
Total deductions.....	75%

Hence the total number estimated for possible consideration of widows' pension claims equals 1,979.

The principal factor which might effect this estimate would be in progressive disabilities, an increase in pension ratings bringing the pensioner into the group classes 1 to 11.

Any man who has been admittedly disabled to the extent of 50% or more in military service may be reasonably considered as being in the seriously disabled group.

Experience with the operation of the Pension Act during the past 20 years has clearly indicated to us that the majority of widows of pensioners in classes

[Mr. Richard Myers.]



6 to 11 who would not be pensioned under the present Pension Act would be gun-shot wound cases, including Amputations. In this connection may I refer you to section 11 of the Pension Act.

(3) In respect of military service rendered during the war, (a) pensions shall be awarded to or in respect of members of the forces who have suffered disability in accordance with the rates set out in Schedule A of this Act, and in respect of members of the forces who have died in accordance with the rates set out in Schedule B. of this Act, when the injury or disease or aggravation thereof resulting in disability or death in respect of which the application for pension in made was attributable to or was incurred during such military service.

The limiting effect of the words "when the injury, disease or aggravation thereof resulting in disability or death" is very marked in the case of gunshot wounds and particularly amputation for whom there is really no aggravation for a stump condition and the effect of this section limits to disability or death, in practically every instance as a direct result of service. This may be illustrated by the following type cases which I now draw to your attention:

- (a) Enlisted, 12-3-15.  
Head wounds, arm amputation above elbow.  
75% Pension.  
Death due to diabetes.  
Widow not pensioned.
- (b) Enlisted, 17-1-16.  
Leg amputation above knee.  
70% Pension.  
Death due to heart trouble.  
Widow not pensioned.
- (c) Enlisted, 3-4-16.  
Leg amputation below knee.  
50% Pension.  
Death due to Arteriosclerosis and heart trouble.  
Widow not pensioned.
- (d) Enlisted, 21-5-15.  
Amputation, left side. Shrapnel wound, right shoulder, second right rib, etc.  
70% Pension.  
Cause of death in dispute.  
Widow not pensioned.
- (e) Enlisted, 25-3-16.  
Amputation, right side.  
70% Pension.  
Death due to heart complication, etc.  
Widow not pensioned.
- (f) Enlisted 16-18-15.  
Amputation, left leg below knee.  
50% Pension.  
Death due to heart trouble.  
Widow not pensioned.
- (g) Enlisted, 13-8-14.  
Amputation, left thigh.  
70% Pension.  
Death due to pneumonia, heart complication.  
Widow not pensioned.

- (h) Enlisted, 11-2-16.  
Amputation, right thigh, in Germany.  
75% Pension.  
Death due to heart and high blood pressure.  
Widow not pensioned.
- (i) Enlisted, 5-7-16.  
Amputation, right arm below elbow.  
60% Pension.  
Death due to heart and other complications.  
Widow not pensioned.
- (j) Enlisted, 8-11-15.  
Amputation, right leg at knee joint, multiple wounds, both thighs and buttocks.  
60% Pension.  
Death due to drowning.  
Widow not pensioned.

I have cited that case because at the last hearing a question arose as to why we would suggest a pension to widows of the men who die as the result of an accident. I have cited that as an illustration of these cases.

*By Mr. MacDonald:*

Q. May I ask why he received only 60 per cent pension. Wasn't he a double amputation?—A. No, he was single—multiple other wounds. I have cited these cases because these men represent a cross-section of the Canadian army. They are men who come from every part of Canada, and they are men who rendered front line service. There is no question as to the character of their service. There is one case, and I am not going to mention the name, in which a large employer of labour in Montreal, a returned soldier himself, enlisted with this particular man. He engaged this man to work for him after he returned. This man was a large taxpayer and he was shocked to think that this man who had lost an arm in the service of his country—that his widow was not to be considered.

Now, that is one side of the story. I just want to read to you for the purpose of recording the women's side of the story this letter which comes from Dalhousie Junction, New Brunswick, under date of April 11th, 1936, and which is addressed to Captain S. E. Lambert, of the Amputations Association. It says:

Dear Captain Lambert: I hope you will pardon the liberty I am taking in writing you but I feel I must talk to someone. My husband, a member of your association, died on March 31st, 1935, and the Pension Commission stopped the pension he was receiving. I was always under the impression that a widow would receive a pension on the death of her husband. I cannot understand a Pension Act which allows pension to children while their father is alive, then when they lose their father's support the pension is cut off; don't you think that I would require the pension more now than when he was alive? I have lost what other support he was able to earn. This has been a year of financial worries, we are not destitute, have always been saving and have put something away for a rainy day. But this is not going to keep us very long. I have a horror of being in debt. My case is supposed to be up for appeal but when the sitting of the Pension Committee is coming up nobody seems to know. I cannot understand why they keep us suffering so long. Last year after your convention I saw by the press where the Amputations Association were applying for pension for widows of all amputation cases, and this year to all over 50 per cent disability. Perhaps you can't do any

[Mr. Richard Myers.]

more than what is being done. The Pension Commission take such a long time to get around. Thanking you in the meantime, I am, yours very sincerely, Mary Hamilton.

Now, I have read that letter because I believe out of my own experience it is a composite view of the women of this country. In making this statement in respect of the widows of these men in the seriously disabled group we recognize that we are asking for the extension of a principle already acknowledged.

In requesting an amendment to section 32-2 of the Pension Act at this time to admit classes 6 to 11 inclusive, we are concerned with the future and beg to suggest that the benefits of this amendment be made applicable from the date when royal assent is given to this inclusion.

We are appealing on behalf of the widows who have rendered a definitely meritorious service directly to men seriously disabled in the service of the state. Hence these women have rendered a definite service to the state.

We are not seeking to increase the pension bill of Canada, we are appealing to Canada through you to waive any saving which might be achieved through the premature death of men seriously disabled in the service of the state at the expense of their widows.

The new national life table just published in a report by the British Government actuary, Sir Alfred W. Watson, shows the average life for man is 58-74 years and woman 62-88 years.

These statistics are for the general population. If seriously disabled men have a lessened average expectancy of life it is expected that their wives too would be equally affected by the extra care and worry.

Our examination of the marriage records of disability cases, married since the appearance of disability, will disclose the fact that the average age of the wife more nearly coincides with that of the husband.

Therefore we gratefully acknowledge the action of the Government in proposing the amendment to section 32-2 of the Pension Act affecting the widows of disabled pensioners in classes 1 to 5 by the removal of the ten-year limit. We respectfully appeal for the extension of this principle to include classes 6 to 11 for the reasons we have stated.

*By Mr. Reid:*

Q. Just one question there: You mentioned the case of a man who was drowned and who had a 60 per cent disability?—A. Quite so.

Q. I was just wondering if his case was any more deserving than that of a man in receipt of pension of \$35 a month who might happen to meet with an accident and pass on. Is he not just as much of a provider in his home, and are his dependents not in the same position as those in classes 6 to 11? I was just wondering why there is this line of demarcation?—A. The reason for the line drawn at 50 per cent is because it is a well established principle that in pension administration 50 per cent is the line of demarcation. You will find that is the established rule.

Q. That may be, but as I see it the man who is receiving \$35 a month is just as deserving of consideration?—A. What happens is this: where a man is so unfortunate as to lose his life in an accident of that character the state benefits at the expense of his poor, unfortunate, little family.

*By Mr. Betts:*

Q. What was the extent of the disability of the man who was drowned?—A. He had an amputation, the right leg at the knee joint; multiple wounds, both thighs and buttocks.



Q. If a man has an amputated leg it seems to me that it would not be very hard in his case to find death attributable to war service?—A. As a matter of fact, that was our contention, but on examination it did not even get us to first base.

*By Mr. Reid:*

Q. What you say is that there are women in this country in many instances who, where the husband and father passes on, have nothing left with which to take care of their families and themselves?—A. It is a heart-rending business.

*By Mr. Mutch:*

Q. Am I right in my understanding that that only applies in the case of a widow who married a man before his disability was incurred?—A. Now, what actually happens you see is, the law now provides a pension for a widow whose husband dies as the result of a pensionable disability, regardless of whether they were married before or subsequent to its incurrence. That is to say, provided he married before the 1st of January, 1930; and provided that he is in the 80 per cent or more group.

Q. If it is any less than that the provision is, in the event of death, death must be shown to be attributable to war disability?—A. I don't get your question clearly.

Q. There is no question about a pension for the widow of a man where they were married before 1930; where the man died of a pensionable disability she continues to get the pension?—A. Undoubtedly.

Q. So, a great majority of the widows of pensioners who have died up until now would be in receipt of a pension?—As a matter of fact 65 per cent of the men who have died to date died as a result of their disabilities, and under the Pension Act there is no question at all about it. Unfortunately, the limiting effect of section 11, in the injury cases is such that it includes a preponderance of injury claims.

Q. It is of particular interest to you people?—A. Yes.

Q. And I suppose you represent a large proportion of that 35 per cent?—A. It narrows down to 25 per cent, who would be eligible.

Q. That is the point I want to get clear in my mind?—A. As a matter of fact the liability is not anything near as great as I thought it was.

The WITNESS: I want to thank you very much, Mr. Chairman and gentlemen, for your patient hearing.

The CHAIRMAN: Thank you, Mr. Myers.

Will the committee hear General Ross now?

Mr. MUTCH: Is he anxious to get away?

Mr. MULOCK: Don't you think the chairman would like to be here when General Ross is heard.

General Ross: I am going to be just as brief as I possibly can. I have only four points to speak on. I would not speak at all, except for the things which have come up since I was heard.

Mr. MULOCK: Are you going to be here tomorrow anyway?

General Ross: I am going to be here just as long as I may be of use to your committee.

The CHAIRMAN: A motion to adjourn is in order. We will meet again tomorrow morning at 11 o'clock.

The committee adjourned at 12.30 p.m., to meet again tomorrow, May 1st, 1936, at 11 o'clock a.m.

Canada, Pensions and Returned Soldiers' Problems, Special

SESSION 1936

HOUSE OF COMMONS

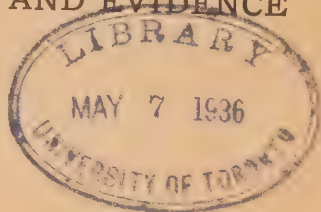
SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 13



FRIDAY, MAY 1, 1936

WITNESS:

General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League.

OTTAWA

J. O. PATENAUDE, I.S.O.

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## MINUTES OF PROCEEDINGS

FRIDAY, May 1, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11.00 o'clock, a.m. In the absence of the Chairman and Vice-Chairman, Mr. Thorson continued to act as Chairman pro tem.

The following members were present:—Messrs. Brooks, Emmerson, Green, Hamilton, Hartigan, Isnor, Macdonald (*Brantford City*), MacNeil, Marshall, Mulock, Reid, Ross (*Middlesex East*), Streight and Thorson.—14.

Mr. Mulock moved, seconded by Mr. Ross (*Middlesex East*), that in view of the absence of the minister and the importance of General Ross's evidence, that the Committee adjourn until the minister can be present. After some discussion, and the assurance of General Ross that he would deal with matters of less vital importance, Mr. Mulock, with the consent of his seconder withdrew his motion, and General Ross was called.

Before General Ross was examined, the Chairman brought to the attention of the Committee a number of individual cases which Mr. Myers read into the evidence yesterday, giving names and regimental numbers. He pointed out that this was contrary to the practice of the Committee, and after discussion thereon, Mr. Reid moved, seconded by Mr. Streight, that the above mentioned names and regimental numbers be deleted from the record. Motion adopted.

General Ross was examined, and filed the following documents:—

Memorandum of the Canadian Legion regarding the Veterans' Bureau.

Canadian Legion's observations regarding Hospital Regulations—Dep't Pensions and Health.

Canadian Legion's observations regarding Order in Council to replace P.C. 1842.

Memorandum submitted by the Imperial Section of the Canadian Legion—Alberta representative.

Letter addressed to Mr. Malcolm McLean from P. J. Philpot, regarding Imperial Veterans settled in Canada and unable to work.

Mr. Macdonald (*Brantford City*), made a presentation of a brief for the Small Pensioners Association of Brantford.

The Chairman read a telegram from C. P. Gilman, Dominion Adjustment Officer, Army & Navy Veterans in Canada, protesting against certain evidence given by Mr. Myers yesterday.

The Briefs of:

(a) The Disabled Veterans' Association of Windsor, Ontario, and

(b) Windsor United Veterans' Open Forum, ordered printed as Appendix "A" and "B" respectively, on April 29, appear as Appendix "A" and Appendix "B" to this day's evidence.

The Committee adjourned at 1.00 o'clock, p.m. to meet again Tuesday, May 5, at 11.00 o'clock, a.m.

J. P. DOYLE,  
Clerk of the Committee.



## MINUTES OF EVIDENCE

HOUSE OF COMMONS,

Room 497,

May 1, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11.15 o'clock, Mr. J. T. Thorson, chairman pro tem, presided.

The CHAIRMAN: Order please, gentlemen.

Mr. MULOCK: Mr. Chairman, I understand that the minister is not going to be here to-day. The evidence to be given by General Ross is very important in that it deals with matters which arise out of the submissions and suggestions of the different organizations who have appeared before this committee. I think that, in the interests of the committee, as well as in the interests of returned soldiers at large, we should adjourn this morning. I think it important that the minister should be present when General Ross is giving his evidence, because there is no doubt about it, there will be many matters about which he will want to get information. He has had a tremendous amount of experience in these matters, and I think we should have the benefit of his attendance. On account of the budget coming down to-day no doubt he is tied up and may not be able to get here at all. I just want to make that suggestion in the form of a motion, if you like, if it is agreeable to the committee.

The CHAIRMAN: That would be my view, but I am entirely in the hands of the committee.

Mr. GREEN: Is it certain that he will not be here to-day?

The CHAIRMAN: That would be my view, but I am entirely in the hands of the committee. I imagine General Ross has some important suggestions to make with respect to representations which have been made to the committee, and I think it would be desirable to have the minister in the chair when General Ross is making his statement.

Mr. GREEN: I notice, anyway, that we have just a bare quorum.

The CHAIRMAN: Yes. We have just a bare quorum.

Mr. HARTIGAN: But, every member of the committee is following the minutes as they are transcribed from day to day. One can sit down and read it. The only persons who are in a position to question or draw out information from General Ross, of course, are the returned men themselves. A great many who are acting on this committee are not coming here every day, for the simple reason that they can sit down in the evening and read from the printed copy any of the evidence that is to be brought out dealing with the subject. A person like myself who never served in an overseas unit, or in any unit of the forces, would not be in a position to draw out information; and, well, we feel that we are not in a position to give an opinion on it. When we come to read it we get a better understanding of it. From that standpoint I don't see what difference it makes whether the minister is present or not. I presume that officers of the department, or his secretaries, are making it a point to draw to his attention any matter of special interest.

The CHAIRMAN: I quite appreciate that. But the thought that occurred to me when Mr. Mulock made his motion was that there has been a great deal of conflict in the opinions that have been expressed to the committee by



various representatives, and the minister as chairman of course might wish to draw from General Ross certain views which General Ross might care to express an opinion on.

Mr. MULOCK: There is the matter of appeals, for instance.

The CHAIRMAN: General Ross may care to express some views in view of the conflicting representations that have been made; for example, with regard to the proposal contained in the bill for the merger of the two courts.

Mr. ISNOR: I think, Mr. Chairman, that in view of the importance of this, more or less, summing up by General Ross it would certainly be wise to have the minister here.

The CHAIRMAN: That would be my view.

Mr. ROSS: I consider it important to have the minister here. I second the motion.

Mr. GREEN: If we are going to have General Ross here on Monday again could he not go on with his evidence to-day, and then have the minister question him on any points that he might care to bring up at that time.

Mr. HARTIGAN: What I had in mind was to expedite proceedings. Possibly there are men here whom we should not keep hanging around.

Mr. BROOKS: Before we adjourn we might hear these other witnesses.

The CHAIRMAN: Are there other witnesses here who are available?

General ROSS: There are no more of our witnesses. We are through.

Mr. ISNOR: I thought we had reached the stage of more or less summing up. That is why I thought it important that the minister should be present.

Mr. MULOCK: There are so many different points of view on some of these points I thought he should be here. It is going to be very difficult for this committee to reach a decision which is going to be satisfactory to the men whom we are trying to help. That was the purpose behind my motion when I suggested that the minister should be here. If there are witnesses other than General Ross I do not think there is any reason why we should not go ahead and hear them. But, so far as the evidence of General Ross goes, he represents one of the largest organizations in the country, and I think the minister should be here when that is given; because, as I said before, there is a great difference of opinion on many of the questions before us.

General ROSS: It might save time, Mr. Chairman. There are two or three matters that I have to cover which I do not think are vital, but there is one matter which I do not want to discuss in the absence of the minister; that is the proposal to reinstate what we call the automatic reference by the commission. When I am discussing that I would like for him to be here. I would like to talk it over with him. There are two or three other matters which I could go on with so as to get them out of the way and leave the decks clear for the committee to pick my alleged brain at its next meeting.

The CHAIRMAN: How would the committee view that suggestion?

Mr. MULOCK: Possibly General Ross could give us an idea of the nature of the matters with which he is prepared to deal this morning. We could then decide whether we might go ahead and deal with them, leaving the more important matters for consideration on Monday.

General ROSS: The Corps Association made some representations in regard to some change in the set-up of the Veterans' Bureau. I have some observations to make on that. I do not think that is controversial. There are one or two other matters, and I have also presented a brief on behalf of the Imperials, which I would like to elaborate to some extent.

Mr. MULOCK: Under those circumstances, and with the consent of my seconder, I withdraw my motion, Mr. Chairman.

The CHAIRMAN: All right. We will hear General Ross.

General ALEX. ROSS called:

The CHAIRMAN: Before General Ross proceeds there is one matter which I would like to place before the committee. When Mr. Myers was giving evidence yesterday he placed on the record a number of names and regimental numbers of deceased pensioners. Some question has since been raised as to whether it is desirable to have specific names on the record. That has not been the practice of the committee.

Mr. REID: I was almost going to raise the point yesterday, because, if you will remember, we objected to the use of names in other cases.

The CHAIRMAN: Yes. The practice of the committee has been to omit specific names; and I would like to ascertain the views of the committee as to whether or not in this case the names should be struck out of the record.

Mr. REID: Expressing my own views, I think the names should be withheld.

Mr. ISNOR: I think a ruling was made on that point, Mr. Chairman.

Mr. REID: I would move, if it is in order, that the names be deleted from the record.

The CHAIRMAN: You move that the names and regimental numbers be deleted from the record?

Mr. REID: Yes. I understand there is a ruling on that.

Mr. ISNOR: At page 21 you will see that there was more or less of an understanding agreed on. The question arose at that time as to the use of names and it was decided: "They will be filed, will they not?" And the acting chairman: "They will not be included in the evidence, they will be filed with the clerk and will be available to the committee."

The CHAIRMAN: Yes. Mr. Reid moves, seconded by Mr. Streight, that the names and regimental numbers be deleted from the record. Carried.

And it is so ordered.

Now, General Ross will you proceed.

WITNESS: Mr. Chairman and gentlemen: It was my intention to open my statement this morning by very frank and perhaps rather emphatic declaration with respect to the trend of much of the evidence that has been given here, but in view of the fact that you have expressed a wish to hear me next week in the chairman's presence I will defer making that statement until that morning. In the meantime, I will confine myself as I said to matters on which I desire to express my views to the committee, and which I do not think are at all controversial.

I asked first that I might file a statement of corrections of my previous evidence. It is not very long, but some of these changes are important. There is no reflection on the reporters in that. Ever since I first appeared at the bar I have been a menace to reporters, and I have not improved as I got older.

The CHAIRMAN: That will be done.

WITNESS: There are also other statements in the evidence of our witnesses which, in fairness to them and to ourselves, I wish to correct:—

In presenting submissions to a Committee of this character, or to the Government, it is always the desire of The Canadian Legion to ensure perfect accuracy of statements and to be fair to the Departments of the Government with which we are dealing. In this connection, two statements made by Witnesses on our behalf have been questioned and I

have taken the opportunity of closely examining the circumstances to ascertain whether there was any cause for complaint. As a result I desire to make the following observations:—

- (1) In the evidence of Mr. Richard Hale, he stated that, in the case cited, the Members of the Quorum had refused to call a certain witness. I have, accordingly, examined the file and have come to the conclusion that, although the statement was made in perfectly good faith, the word "refused" is perhaps too strong, and the proper word should have been "discouraged."

Mr. Hale agrees that that would be the proper inference to draw from his remarks:—

- (2) Mr. Bowler, in his submission touching the proposed legislation in connection with self inflicted wounds, stated that the Judgment of Colonel Sherwood and Mr. Richard of the Pension Appeal Court had the effect of changing the established practice. This statement was made with my concurrence as I believed, from consultations which I had had with the Commission, that this was the fact. After further discussion, however, I think that possibly the statement might be modified to read—"had the effect of changing the practice followed by the Commission in a good many cases."

The actual fact of the matter is that there appears to be no real dividing line. There are a number of cases which have been allowed, and there are a number of cases which have been disallowed; so, the statement as made was perhaps a little too broad.

*By the Chairman:*

Q. Would it be correct to say that each case had depended on its facts?—A. We can't find any principle anywhere.

WITNESS: Now, gentlemen, I call to your attention a memorandum which I filed in respect to the Veterans' Bureau. You will recall that the Corps Association in giving their evidence stressed the necessity of the independence of the bureau, and also made the suggestion that practically all the adjustment work in Canada should be merged in that bureau. I desire to submit our observations.

In the brief submitted by the Canadian Corps Association in Ontario, the status of the Veterans' Bureaus has been discussed at considerable length, and The Canadian Legion desires to make some observations in regard to the matters therein referred to.

In the first place, let me say that during the Parliamentary Committee of 1930, and also during the Sittings of the Joint Special Committee set up in 1932 it was fully recognized that, at this late date, the proper preparation of pension claims was a matter of primary importance. Accordingly, in 1930, Parliament provided for the establishment of a Veterans' Bureau, to give assistance to all applicants, and recognized the responsibility of providing such assistance at government expense. In the Report of the Committee of 1932-33 it was pointed out that these facilities should be used to a greater extent and it was provided that, when the Commission received an application obviously insufficiently prepared, an applicant should be given the opportunity of having his case referred to the Veterans' Bureau, or elsewhere, in order that the case might be adequately prepared for presentation. The principle, therefore, of proper preparation is fundamental and that there should be agencies established for that purpose, is now well established, and the question is whether such agencies are now functioning efficiently.

It is recognized and, in fact, we have always recognized, that the Veterans' Bureau suffers under a handicap in that it is a part of the Department and,

[General Alex. Ross.]



consequently there is always liable to be the feeling on the part of the applicant that his case is being dealt with by a body adversely influenced and susceptible to departmental control. We know, as a matter of fact, that this is not the case and that the Bureau has not, at any time in its history, been subject to domination, either by the Department or by the Commission. Nevertheless, the fact remains that this feeling does, and must inevitably exist.

I might add one observation there as perhaps I have not made it clear in my brief; that it is quite true that the Bureau is dependent upon the department for medical advice and that it is very difficult for them to get medical advice outside of the department. In that respect, they are handicapped as compared with the veteran organizations which can and do secure such advice when required. That situation can, I think, be corrected without too great expense.

The situation, however, has been ameliorated to some extent by reason of the fact that both the Canadian Legion and the Army and Navy Veterans' in Canada maintain, in Ottawa, independent bureaux, available to all who desire their services and, consequently, if a man feels that he has not received proper consideration from the Departmental body, he has an alternative remedy which enables him to feel that his case has received due and proper consideration and that the door has not been closed to the proper presentation of his case. The existence of these independent bureaux has, we believe, been of great value to the Veterans' Bureau for this reason and in the result we believe that the system has worked very satisfactorily.

It must be admitted that there has been, of course, overlapping, but at no expense to the public and while perhaps the combined expense may seem to be high, yet the fact remains that it is not nearly as high as it would be if the whole work was centralized in one body. The Canadian Legion, covering as it does the whole of the Dominion, and having at its disposal hundreds of voluntary workers, is able to greatly amplify the service rendered by the Veterans' Bureau without expense to the public. In the result if the Legion is unsuccessful in its presentation before the Commission, when the case goes to the Veterans' Bureau (which normally handles most of the cases before the quorum), that case is, generally speaking, fully prepared and the Veterans' Bureau is, therefore, saved the expense of further searching for evidence. In other words, the Legion never abandons a case until it is satisfied that every possible source of evidence and all available medical opinion has been exhausted. We consider, therefore, that it is obvious that the present combination of the system of a state-aided organization with voluntary organizations, tends to greater efficiency and to a great saving of expense.

We are free to admit that it would be desirable, if it could be so arranged, to seek to divorce the Veterans' Bureau from the Department to the greatest extent possible, but we must also candidly admit that, no matter what method may be adopted, the feeling will, in course of time, develop that any such organization is, to some extent, responsible to the government and consequently may be regarded as perhaps somewhat too susceptible to government influence. Our experience in the past leads us to this almost irresistible conclusion.

While we are, therefore, entirely favourable to everything possible being done to create the impression that the official organization to assist veterans in the preparation of their cases is free from outside influence, at the same time we cannot accept the suggestion put forward that the one official advocate, if we may so describe it, shall be the only means of access to the adjudicating bodies. We believe that it is the right of every applicant to select his own advocate and that the withdrawal of this right would inevitably result in dissatisfaction.

In making this statement, it must be clearly understood that the Canadian Legion is not fighting for the maintenance of its own Bureau. We would be only too glad if it were possible to be relieved of the burden, but from our experi-

ence—extending over a period of nearly twenty years—we believe that it is impossible to deny the applicant the right of access, by his selected medium, to the court of first instance. The independent Bureaux maintained by Veterans' Organizations is the safety valve of the whole system, and is to our minds, fundamental.

While, therefore, we definitely approve of everything possible being done to give to the Veterans' Bureau the greatest independence possible, and also making available to them the largest possible degree of access to independent medical advice, at the same time we consider it is fundamental that the right of access to the adjudicating machinery for the individual applicant, by whatever medium he may select, should be maintained intact, and we would strongly deprecate any interference with that right as suggested, believing as we do, as the result of experience, that the withdrawal of such right must inevitably produce great dissatisfaction.

As an Organization which has Branches in every part of Canada, and which represents every branch of the Military Forces of Canada, we feel it is our undoubted right to approach whatever body may be charged with the responsibility of determining pension claims, and to utilize our resources to the greatest possible extent to secure due consideration for such claims. At the same time, we would point out as an independent Organization we are in a very strong position to advise applicants whose claims cannot be supported, as to the hopelessness of proceeding and, therefore, reducing the work of the adjudicating bodies.

That is my submission on that phase of the case. You will recall that we did not introduce it before and, consequently, I have to deal with it now, the matter having been raised.

*By Mr. Mulock:*

Q. How would you suggest taking action to show the applicants that this board is actually separate from the government?—A. The only method is that suggested of an independent commission of some kind.

Q. You mean somewhat along the lines of the corps representatives without taking the right of the man to choose his own advocate?—A. Yes, exactly. If the committee feel that way, I am not objecting at all. I think they have a good thing, although I do not think it will last very long. I am pretty much of a pessimist. My opinion is that it would be a desirable thing to do; that it would be desirable to give the greatest possible independence. At the same time, I am like the minister, I am slightly pessimistic.

*By Mr. Green:*

Q. Would it not be more advantageous, as the ex-soldier would soon conclude that the Commission was set up by the government?—A. The corps idea is perfectly sound. It would perhaps be an advantage but I would suggest that you ask Colonel Topp about that. I think he will be available to you, and he can give you an idea. Mr. Green is perfectly right that it would not be very long until somebody gets the idea that as soon as it is established it would a government show and you would not get a square deal.

That is why I say we must maintain our independent organizations to give the men a chance.

*By Mr. Mulock:*

Q. Regardless of who the board is, even if they are not in receipt of pay?—A. I say it would be a great improvement.

Q. You think it would be an improvement?—A. Yes.

Q. But you think it would be only temporary in nature?—A. I am afraid, from our past experience, it would be considered as bureaucratic.

[General Alex. Ross.]

Q. Have you any suggestion as to how you can inspire confidence in the men such as one that would function independently of the government and without interference from them?—A. Yes, sir.

Q. In other words, working in the interests of the applicants for pension?—A. Yes. What we have got to do, in order to deal with this particular knotty problem and which the minister has so often referred to, is endeavour to bring about administration to the point where responsible veterans and public men can defend it with a clear conscience and thus restore confidence in it.

*By the Chairman:*

Q. You suggest that that can be done under the existing machinery?—

A. It can be done. I want to elaborate that point in my opening statement at the next session. That is the point that I want to talk about. I am rather disappointed with the course the evidence is taking before you; that pensions have been stressed to a far greater extent than we want the point stressed, and we have overlooked the fact that unemployment is, after all, the thing we have got to think about in these days. I am going to give my views on that. That is why I have given you what I consider is the fundamental idea. We have got to get down to some means or other of removing these suspicions that always exist that the man is not getting a fair deal. I think that is going to require perhaps a little weeding out, and perhaps some pretty severe administration.

Q. You mean a weeding out of the personnel?—A. Probably.

*By Mr. Reid:*

Q. Do you suggest encouraging the applicant to go and choose his own advocate?—A. I think that is a right that you cannot very well deny him.

The CHAIRMAN: But there is a difference between encouraging an applicant.

The WITNESS: We do not encourage it.

*By Mr. Reid:*

Q. Would you go to the other extreme?—A. We are a useful institution, in that if a man goes to a pension advocate and he feels, probably through no fault—I will say through no fault of the pension advocate—he always has the idea that perhaps after all it is just another government machine set up to do him, and he thinks he will go to the veterans. He comes to us and we go into the case, and if we say he has no case, he knows he has at least had independent advice, because neither ourselves nor the Army and Navy Veterans recommend the domination of anybody. Therefore, we are a safety valve.

*By Mr. Hamilton:*

Q. In the last sentence of the last paragraph of your brief you state:—

At the same time we would point out as an independent organization we are in a very strong position to advise applicants whose claims cannot be supported, as to the hopelessness of proceeding and, therefore, reducing the work of the adjudicating bodies.

Does that ever happen?—A. We do it all the time. I do not know whether we do it with much success, but we certainly try.

Q. It appears to me from my experience that that does not happen very often. I was wondering if it really did.—A. I asked about that the other day. I called our adjustment officers in and asked them, and they admitted frankly that while they give advice very freely it is not often followed; that is, if they can find any other place to go. But actually what happens is that they perhaps go to the Veterans' Bureau and then they come to us, and after that there



is no place to go and they stop. Of course, they can go after that to a member of parliament. If there is no place else to go, they can go to a member of parliament, but that is up to him. If he wants to carry on, that is all right.

*By Mr. Hamilton:*

Q. You appreciate that everything possible is being done to make available to them the best possible independent medical advice?—A. Yes.

Q. What are your thoughts as to how that can best be done?—A. By giving them an appropriation.

Q. It is a money matter?—A. It is a money matter entirely.

Q. And allow who to select that medical advice? The same idea that you have just suggested, that the man may select it himself?—A. The chief pension advocate or the district officer, it is exactly the same. Captain Gilman and Mr. Hale have explained to you their procedure. When we get a case on which we disagree with our departmental authorities, we get our own specialists and find out what they have to say about it. If our specialists happen to be better than theirs, we may win the case. The Veterans' Bureau have got those facilities. Remember, I am not stating that with authority, because that is not my business. It will be the chief pension advocate's business to tell you that. My information is that it is not very easy for them to go outside of the departmental officers except in very special cases. It has been done, remember, I admit that.

Q. What I have in mind, not knowing a great deal about it and not having been in contact with the matter like many others for years, is that in the case of a man whose doctors, probably local doctors in a small place, are satisfied that this man has some trouble attributable to his overseas service, is there any way of then getting medical advice or evidence before the commission other than bringing the man's own doctors and paying them?—A. Absolutely. The commission itself has almost unlimited powers, and are very good in that. Suppose your case is submitted and you have your own medical evidence that you have secured in your own locality and that is reviewed by the commission's medical staff and they make their own observations which do not agree. Very often, in fact, almost invariably in those circumstances, the commission will refer the conflicting opinions to recognized consultants who give an opinion which is generally the governing opinion.

Q. I suppose the evidence of local physicians comes in in the form of a statement or certificate?—A. In the initial stages before the commission, it is generally always in writing.

MR. HAMILTON: It would be a good thing to have these doctors face to face and let them fight it out.

WITNESS: They do in the quorums.

*By Mr. MacDonald:*

Q. General Ross, I understand you have your own advocates, or do you call them advocates?—A. No. Our system is this: we have a staff here, what we call adjustment officers, a permanent staff, who carry on their negotiations with the commission. If we cannot bring a case to finality, that is, to the satisfaction of the man, it goes in the normal routine to the chief pension advocate who arranges for it to be heard by the quorum. We do not make a practice, in fact, we have not got the staff or the resources to take cases before the quorums. We do take certain cases, test cases, for instance, both before the quorums and the appeal court. Normally, after we finish with the commission, the case passes to the chief pensions advocate whose duty it is to give the man a public hearing or to carry the case to appeal.

[General Alex. Ross.]

*By Mr. Reid:*

Q. I know it does not come under your jurisdiction, but might I ask if there are any cases presented by the pension advocate before the Canadian Pension Commission?—A. Oh, yes, they do a great deal of that, and I think you will find, when Colonel Topp is before you, that he will tell you he has had quite a fair measure of success. We save time and expense by getting the cases disposed of in the first instance.

*By Mr. MacDonald:*

Q. General Ross, have some of the other organizations also adjustment officers?—A. The Army and Navy Veterans maintain a bureau also. Other organizations do adjustment work by correspondence, but only the Army and Navy and ourselves maintain a permanent staff in Ottawa for that purpose.

*By the Chairman:*

Q. There are other organizations that have adjustment bureaux outside of Ottawa?—A. Not established on the same basis. The Canadian Legion has three in Ontario which are maintained by the canteen fund.

*By Mr. Mulock:*

Q. Where are the others situated?—A. In Toronto, London and Windsor, and there is a travelling man who covers northern Ontario.

*By Mr. MacDonald:*

Q. Is there any co-operation between your officers and the officers of the Veterans' Bureau?—A. Oh, yes, most harmonious relations.

*By Mr. Mulock:*

Q. General Ross, is the work by your bureau restricted to members of your association?—A. Absolutely not.

Q. You act for any veteran who applies for assistance?—A. Any veteran. And according to our records, we estimate that 80 per cent of the work we do is done for men who have never been members of our own organization. We are just as free as the Veterans' Bureau. Our bureau was started by a government basic grant, which I think is well spent, because they get the benefit of our voluntary service and are saved adding additional machinery to the Veterans' Bureau. We utilize our public money such as a charitable organization and the balance is made up out of our own pockets to maintain the benevolent department of our work. It is regarded as a purely benevolent effort which we maintain.

Q. Do you feel yourself that there is a tendency to give more weight to the evidence of prominent doctors maintained by the department and who appear before quorums than there is to the evidence of outside doctors who give evidence on behalf of applicants for pensions?—A. I am not an adjustment officer nor have I appeared before the quorums. I am going to have something to say about that in the statement which I propose to make later.

Q. You will deal with that?—A. Yes.

*By the Chairman:*

Q. It is one of the conditions of the grant which the Dominion gives to your organization, is it not, that your organization should entertain the claim of anyone who asks for assistance?—A. That is a fact, but actually it is not necessary. The question has been raised time and time again, and successive Dominion conventions have ruled that our service shall be free to everyone regardless of where the money comes from. It is a free service. We feel we ought to give it.

*By Mr. Hamilton:*

Q. It is well known that you have a service of that nature?—A. I think it must be, because I do not think there is any organization in Canada which gets as much publicity as we do, and if anyone does not know about it, I cannot think how they could help it.

*By Mr. Green:*

Q. Would any amendment be required to the Pension Act in order to enable the chief pension advocate to call independent medical advice?—A. You would have to ask that question of the deputy minister or someone who understands departmental routine.

Q. You said you thought it was merely a matter of more money?—A. It is entirely a matter of money.

Q. You do not know whether the Act as at present worded is wide enough to enable the advocate to do that?—A. As I say, when you come to deal with money matters involving the department you are getting into a very technical question, and not being in the department, I really could not answer that question.

*By Mr. Reid:*

Q. Do you care to express an opinion as to whether you think the pension advocates have too many cases to attend to?—A. At present they have, yes. I do believe that there is in certain areas perhaps too much congestion. At the same time, that is a problem that faces us all. In the first place, you cannot pick up a man in a day who can do that kind of work, and, in the second place, I think you must all appreciate that there must come a time when there will be an end, and I think we should be very close to it now. It would be very unfair now to take men on who will just have to be dispensed with in a short time.

*By Mr. Hamilton:*

Q. Do they conduct the cases for applicants before the commission or the quorums?—A. The quorums and appeal court.

Q. To whom do they look for the necessary technical medical advice to enable them to properly examine witnesses?—A. Primarily the department doctors. That is the point made by the corps, which I think is well taken; that the facilities for obtaining independent advice should be extended to them. Mr. Green raised the point, and I think it is just a matter of money.

Q. I have this in mind: that although the applicant might bring in an independent doctor the advocate conducting the case might be advised by another doctor, that is a departmental doctor, who would be the one who would be at the advocate's elbow assisting him?—A. That is the primary source of assistance to the pension advocates.

Q. I am not referring to the giving of evidence so much as coaching the advocate as to terms used in this, that and the other thing, while he is in the process of conducting an examination?—A. I think you would be better advised to consult either Colonel Topp or one of the other advocates who handle a great deal of that work, as they could tell you more about that than I can. My knowledge, at the very best, is only general and I would hesitate to commit myself in any general statement on that matter.

*By Mr. Mulock:*

Q. Does not the advocate get, shall I say, the benefit of the advice of the departmental doctors?—A. All he wants of it.

[General Alex. Ross.]



Q. Is it not one of the same staff who was giving medical evidence with regard to that very pension claim who is called as a witness in the case?—A. As a matter of fact, the medical staff at headquarters here do not generally give evidence before the quorums.

Q. I am speaking about Christie Street Hospital, for instance?—A. Yes, the doctors in Christie Street are called before the quorums on occasions.

Q. When a pension advocate representing an applicant for pension wants advice on the medical part of it he goes to one of the same group of doctors, is that correct?—A. Yes.

The CHAIRMAN: He does not confine himself to that.

*By Mr. Mulock:*

Q. But he does go to that group to get evidence?—A. I do not know. I presume so.

Q. Is that not one of the things that shakes the faith of the applicants for pension?—A. It is.

Q. In, shall I say, the absolute fairness of the advice and opinions that they are getting?—A. I believe that feeling does exist, and that is why we suggest that in order to remove that feeling the pension advocate without any control should have the right to seek independent advice.

*By Mr. MacDonald:*

Q. There is nothing to prevent that now, is there?—A. As I understand it—now remember, I do not want to be taken as speaking authoritatively because I am not sure—but as I understand it now, when the chief pension advocate wants to go outside of the doctors immediately available, or the departmental staff, for a specialist's opinion he has to obtain the authority of the director of medical services. In other words, he is not free. He has got to have the approval of somebody else before he can do it. The suggestion of the corps, as I understand it, is that he should have some liberty of action by utilizing an appropriation for that purpose.

*By the Chairman:*

Q. But surely in many cases the applicant for pension submits an opinion from his own independent medical advisor?—A. H does.

Q. Upon which the pension advocate relies to a very great extent?—A. He does.

Q. And the pension advocate is not confined, in his presentation of a case, to the advice which he gets from the departmental medical advisor when he has obtained a medical opinion from the physician who has been attending the man?—A. To answer that, again I say I can only speak from a hazy knowledge of the subject. The point, as I understand it, is that when you have, as you said, a certificate of the man's own doctor, and then when you have a certificate of the departmental doctor which does not agree with it, it is a question then of getting an opinion from a qualified consultant who can reconcile the two opinions. I think that is the point in issue.

*By Mr. MacDonald:*

Q. I would like to know what General Ross thinks about that. I think that is the point at issue. Where do they go then?—A. If he gets authority, he goes to one of the recognized specialists and gets an opinion. If he does not get the authority, he does not get that opinion.

Q. The recognized specialist has nothing to do with the department?—A. No.

*By Mr. Hamilton:*

Q. What I have in mind is this. I have some knowledge, not very extensive, of examining medical witnesses, and I know that in doing that a lawyer largely depends on the coaching he gets from a qualified man sitting at his elbow. Now it depends on who is doing the coaching. The trend of the whole examination is substantially that which the medical man coaches the advocate on. At least, that is my experience. It occurs to me that you are not getting very far by simply having available independent medical advice, unless that independent medical advisor is coaching the advocate in putting the questions?—A. We had that on the Tribunals, when the Tribunals were in existence. They had a medical advisor attached to them for that purpose.

*By Mr. Mulock:*

Q. If the Veterans' Bureau had doctors attached to their staff who were prevented from doing any departmental work other than assisting the pension advocates to prepare their cases, and not part of the departmental staff as such—The CHAIRMAN: But part of the Veterans' Bureau.

*By Mr. Mulock:*

Q. Working in the interests of the applicant to see that the medical evidence is brought out and to assist the pension advocates in the preparation of cases, do you think that that would tend to give applicants for pensions more confidence in the administration?—A. Colonel Topp would have to answer that from an administrative standpoint.

Q. I am talking from the man's point of view?—A. I think personally from the man's point of view—of course, remember, you are getting me out of my depth because I do not understand that problem—

Mr. HARTIGAN: I think we are taking the wrong attitude in discussing this question. I have been before the tribunals and the Pension Commission on very many occasions as a medical witness for the returned men. We can postulate to begin with that the Pension Commission has the power to grant a pension. They can grant a pension for anything. It is not necessary to have medical opinion. If the Pension Commission sees fit to grant a pension, they can grant a pension for anything. Their power is unlimited as regards granting a pension to a returned man. This is being said in a kindly spirit, but we have to admit, as medical men, that some of the medical certificates that we heard read before the Pension Commission or before the various tribunals, were, to say the least, ridiculous and cast a reflection upon the medical profession. I think that a doctor should not be put in that untenable position. But mind you, I hold this: that where the pension commission falls down is that they do not give the returned man the benefit of the doubt. I do not care what specialist you take. For instance, take a man with otitis media—I will cite different cases that come to my attention. Otitis media is an infection of the ear. In the case I have in mind, ten years afterwards the man developed an ulcer of the stomach, but that was ten years after he returned from the war. The idea was to connect that ulcer with his otitis media. That was a pretty far fetched question, but this doctor did it. Now, we had to sit there and listen to this man. He said he went about it in this way: he looked up some old reports of a theory that was held in bygone years, which is not held as good legal or theoretical practice today, to the effect that an ulcer of the stomach was due to an infection in the system, and that this man having otitis media, which was an infection, it was quite likely that the ulcer of the stomach was due to the man having otitis media. Well, now, when you bring a doctor into a situation where he has to do that, and a lawyer has to get up and back up that statement, I say it is wrong. I say that the chairman of the commission, if he is so inclined, and sees

[General Alex. Ross.]

that that man is suffering from a condition which could be due to something like that should give that man the benefit of the doubt and the chairman is vested with full authority to give him the benefit of the doubt. That is where I say the Commission is falling down to a very great extent. But all this talk about outside doctors—you know and I know, we are talking among ourselves as friends, that you can get a doctor's certificate, and I am sorry to say that in a great many instances the facts do not support the condition of the man.

Mr. REID: Let me tell the doctor of another case. I attended before the quorum last year on behalf of a man, and the advocate presented this case. The man was suffering from carcinoma, which is cancer of the stomach. He had had an ulcerated stomach years ago. The doctor who was sitting as one of the quorum said that carcinoma and ulcer of the stomach had no relation to each other. Here was a layman acting as an advocate and myself, appearing on behalf of that man. If that man had had a medical man, and that medical man could have produced evidence to show there was a connection between ulcer of the stomach and carcinoma, the result might have been different.

Mr. HARTIGAN: You mean the possibility of the carcinoma being superimposed upon the ulcer?

Mr. REID: We had to take the doctor's opinion. We could not dispute it.

Mr. HARTIGAN: Ulcer of the stomach is not definitely traceable to a subsequent carcinoma.

Mr. REID: I do not know. You, yourself, mentioned a disease right now that very few of us understood.

Mr. HARTIGAN: Otitis media?

Mr. REID: That is what the advocates are up against.

WITNESS: All the advocates have a pretty fair knowledge.

The CHAIRMAN: They have a fair knowledge of those terms.

The WITNESS: They would be pretty good doctors if it became necessary.

*By Mr. MacDonald:*

Q. In the case Mr. Reid cited, he could have had any of the departmental doctors or his own doctor in his own city?—A. Yes, he could.

*By Mr. Hamilton:*

Q. Then the pension advocates have become fairly well qualified in those matters?—A. I would say that the great majority of them have a pretty good working knowledge of medicine and know what they are talking about, and also, as far as that is concerned, they have unlimited opportunities for getting advice from departmental doctors.

*By the Chairman:*

Q. And from an outside doctor, that is, the doctor who is the man's own doctor?—A. Yes. Of course, there is no provision for payment. The difficulty is the matter of consultants' fees in cases where there is a real battle. I am sure Colonel Topp will clean that up for you in ten minutes.

Mr. STREIGHT: We had a case in Toronto last fall of a returned soldier who, every time a neighbour would come into his house, would moan and groan, and the neighbours came round and said it was terrible that the government would not look after this man. At last they got three specialists who came in and wrote letters about this man stating what he was suffering from and also statements about his service. I do not know how they knew, but they claimed it was due to the man's service. There was such a noise made about it that I was able to get him admitted to Christie street hospital for six weeks. After



six weeks when the result of the tests came back, they found that everything was normal and dismissed him as normal. Now, what are we going to do with these medical men? It is a reflection on the medical fraternity.

The CHAIRMAN: Just on individual doctors, not on the fraternity.

Mr. HARTIGAN: Oh, no. I admit that. But the Pension Commission should give these men the benefit of the doubt. I say this committee should make a strong effort to have the benefit of the doubt clause implemented.

Mr. STREIGHT: Could you give the man whose case I have just quoted the benefit of the doubt?

Mr. HARTIGAN: All his tests proved negative. He had no ulcer, no carcinoma and no gastritis.

The CHAIRMAN: Will you kindly proceed, General Ross.

The WITNESS: For the purpose of the record, also for the information of the committee, you will note that in our brief which was submitted at the outset, we made no mention of the radical changes that were made in the treatment regulations—

*By Mr. Green:*

Q. Before General Ross leaves this other submission, he mentions on page 2 of his brief that the cases are usually fully prepared when they go before the commission. We have had quite a lot of evidence to the effect that the cases are not fully prepared; that they get only a semblance of a case and go to the commission, and that that is one reason why there is such a delay and the machinery is clogged up?—A. That is the point I want to discuss with the minister. That is his idea, it is not mine. If you will let me defer that until Monday I will deal with it then. We do not agree with it. I think I can show how obvious it is, and also produce strong evidence to show that the cure will be worse than the disease.

You will remember that Captain Browne-Wilkinson made a lengthy observation with regard to P.C. 91, which is the new regulation covering treatment. I want to explain to the committee why I do not ask for your consideration to that question, and to give you our views very briefly.

After these regulations were tabled in the House, we spent considerable time reviewing them and as a result we had a two-hour conference with the minister, also a two-hour conference with departmental officials. We drew the attention of the minister to our objections, and our objections were not brief. They are considerably more extensive than were Captain Browne-Wilkinson's which were filed with the department.

Both the minister and his deputy assured us that it was not the intention of the department or of the minister to take away from us any existing rights. The minister said he was advised by his departmental advisers that in the interests of efficiency it was necessary to make the changes suggested. We realize that this is a purely administrative matter. It is a matter of ministerial responsibility, and it is not for us to seek unduly to interfere with the responsibility which devolves upon a minister of this or any other department. We simply said, "Very well, if you assure us that it is not your intention to take away existing rights, we will give the system an opportunity to work. At the same time we wish to draw to your attention most emphatically the fact that we can place no other construction upon the words used than the gradual disappearance of existing rights if applied strictly." We have accepted the minister's assurance. We accepted it in good faith just as he gave it, and if his subordinates carry it out in the same spirit, I do not think we will have any trouble; but if his subordinates do not carry it out in the same spirit, the minister is going to hear about it. I think that is a fair method of presenting it.

[General Alex. Ross.]

I am filing our observations in brief form which you may have for reference if you so desire.

(Observations of the Canadian Legion of the B.E.S.L. in connection with the proposed Order-in-Council to replace P.C. 1842 filed with the committee.)

That is the position in regard to medical treatment as far as we are concerned. In other words, we think we are capable of dealing with the department.

*By Mr. Reid:*

Q. I notice your brief states:

"In substitution for P.C. 1842 of October 18, 1928."

Was that the last year the regulations were made? Were the regulations made, first of all, in 1928?—A. They have been developed year after year, and the last provision was made in 1928. This new revision wipes out the old one and substitutes a new. You will see that we consider that they have used language which takes away discretion and curtails privileges. We think it is susceptible to that, but the Minister says he does not intend to do it that way and the Department says that. We are going to let them see what happens. If things do happen, of course, we shall go back to see the Minister again.

Mr. GREEN: Is P.C. 91 within the scope of our inquiry?

The CHAIRMAN: The question was raised at the beginning of the sessions of the committee, and the chairman at that time indicated that while P.C. 91 was not, strictly speaking, within the scope of our inquiry we might enquire into it and make whatever recommendations we desired to make with regard to it.

WITNESS: It falls into two parts. First, the general regulations which govern all men, and it also has the effect of very largely reducing the allowances granted to certain men. It is a matter purely of administration, and it can be changed by Order-in-Council. I imagine if the Minister finds it is not operating in the manner in which it was represented to him he will make changes.

Q. It can be done without any amendment?—A. It can be done without any amendment to the law at all. I want you to understand that we were not neglecting the interests of the veterans, and that we have really looked after them energetically on that subject.

I will next draw your attention to a memorandum which was submitted by me on behalf of the Imperial veteran section of the Canadian Legion. This is their own presentation. It does not follow that I agree with all that is in it. It is one of the various statements that have been put up in regard to the situation of the Imperialist. I am not coming here to-day to suggest that we should add immeasurably to the Canadian pension bill. I am not desiring that we should go as far as many people have gone to say that we must take these men under our wing entirely from a financial standpoint, but I am here in connection with the unemployment problem, really to draw your attention to the very important facts which are mentioned in this brief.

We have in Canada a very large number—I am not able to estimate the number, but I should say running into the thousands—of former members of the British service who came to Canada, some before the war and some after the war, who are to-day in very sore straits and who are going to be in a worse condition as time goes on.

*By the Chairman:*

Q. And who are now Canadians?—A. Those who are here and are going to stay here. They present a relief problem, a problem also affecting our human sympathies, and of very great difficulty, because most of them are men who served their country well, who have suffered rather serious disabilities and came to Canada hoping to re-establish themselves and make good, but who, because

of their disabilities, have not been able to make good. The situation is to some extent this: None of us after the war appreciated fully the intangible disabilities which resulted from war service. We only thought of the actual wounds, but we know from our own experience, particularly in the case of these Imperialists, that as time goes on their disabilities will progress or new disabilities will develop. To-day, as a result, a large number are severely handicapped in securing employment and are, we know, to a large extent, on relief of one kind and another. Now, after the war, the British Government was being faced with the serious problem of unemployment and thought it was best to encourage emigration. Canada at that time, still riding on the wave of prosperity which had developed as a result of our opportunity to sell large quantities of our products during the war, decided that we wanted to expand. The obvious result was that both governments saw in the ranks of the unemployed ex-service men an opportunity, and large numbers of these men were induced to commute their pensions and come to Canada—and we admitted them.

*By Mr. Mulock:*

Q. By whom—A. They were admitted by the British Government and induced by our Government to come to Canada. They were admitted to Canada having disabilities.

Q. Who induced them to commute their pensions?—A. They were allowed to do it by the British Government. It got so bad we had it stopped.

*By the Chairman:*

Q. Were they induced to come to Canada?—A. Our immigration agents were inducing people to come to Canada. I am going to suggest to you that that is a matter that might be investigated to see where we can place the responsibility.

Q. They came in as a result of our immigration policy at that time?—A. Yes.

Q. As a result of the general policy?—A. Yes.

*By Mr. Straight:*

Q. And it was necessary for them to have a certain amount of money available?—A. Yes. In Canada we recognized the equity of commutation, and our men were placed back on pension. That is not the case of the British. Up to 20 per cent he might commute, but it is still commuted. He now finds his disabilities perhaps 50 per cent or perhaps 100 per cent, and he is a charge on us somewhere.

There are other men who did not know, perhaps those who were only small pensioners but did not know that the effects of the war were going to be what they are, and they have broken down perhaps to a greater extent than our men because, after all, the Imperial soldier had it much harder than the Canadian soldier.

The we have the pensioner. We have admitted him, and the British pension is only half what ours is. Then there are a number of things that they do not recognize, with the result that a man with a 100 per cent disability and a wife and children has nothing to live on.

I am asking you, as you consider unemployment, to see if you can give these men reasonable consideration, because, after all, they are Canadian citizens now.

We have made repeated approaches to the British Government. I have personally had the honour of presenting the case to them in somewhat the same terms as I am doing to-day. We have approached them in every way and utilized the services of our sister organizations in Great Britain, and the British Government has taken the strictly proper stand. I say strictly proper from a national standpoint and international standpoint. These men are no longer a charge of the British Government except to the extent to which they are pensioners, and there is nothing they can do for them.

[General Alex. Ross.]



*By the Chairman:*

Q. Exactly in regard to pensions?—A. Except the pensions they actually have. And remember, you can only get a new pension now by grace. It is not by right. If a man came to this country a non-pensioner and broke down and applied to the British Government for a pension seven years after discharge, he would not get it except as a matter of grace. They very rarely get it unless they are able to show that it can be traced directly to a gunshot wound.

*By Mr. Reid:*

Q. It would have to be good grace, too?—A. Yes.

*By the Chairman:*

Q. Did they set their time limit in 1926?—A. Yes.

Q. And they never opened it?—A. No, except they have this ministerial award. The Minister has the right himself to grant a pension on the recommendation of his advisers, but it is a matter of ministerial responsibility and discretion. There is no appeal at all. As I say, we have made approaches in every way. Canada on her part quite properly says, "We are looking after our men, we cannot look after anybody else." I am asking this committee, let us say as a purely economic problem, to consider whether something cannot be done to see if these men who are going to break down more and more as years go by cannot be cared for in some way. And we think there is a joint responsibility between the two Governments.

I am not asking anything more than that I think the committee should consider the matter to see if we cannot find some formula upon which we might discuss the matter of joint responsibility with a view to doing something to meet the situation.

The recommendation has been made by our organization, and was presented to you by one of our officers, that we might fairly, having admitted these people to Canada, extend some of the privileges of the War Veterans' Allowance to a greater extent.

Also tied up with that is the question raised the other day by Mr. Green, the situation of a large number of our people, domiciled Canadians, native-born Canadians in many cases, who enlisted in specialized branches of the British army, the flying corps, the veterinary corps, motor transport, and so on, and who served and came back to Canada and have since broken down.

The CHAIRMAN: Their question is somewhat different.

WITNESS: They are Canada's responsibility, nobody else's. They are Canadians, and we practically asked them to do it because we certainly encouraged them to go to the flying corps.

Q. Are they Canadian citizens as far as pensions go?—A. No. They have got to go to another country to establish pension. That is the situation of these people. Mr. Green raised that point the other day and I just wanted to explain that. It has been discussed before, but that is the situation in which they are placed, and that is another Imperial responsibility that we have to solve.

*By Mr. Mulock:*

Q. Does that refer to Class 1?—A. Class 1.

*By the Chairman:*

Q. What do we do with regard to that? What does the Canadian Government do?—A. They have first to go to the British Government and establish their claim, and after that—

Q. And after that?—A. After that the Canadian Government will, up to a certain time—I do not think it is still in existence—put them on the Canadian basis. If a Canadian now managed to establish entitlement with the British Ministry, he would not get on the Canadian rate, is that not right, Mr. Bowler?

Mr. BOWLER: I am not clear on that.

*By Mr. Hamilton:*

Q. And if he could not get a British pension he could not get on at all?—

A. No.

*By Mr. Hartigan:*

Q. Have any men of that type come over in recent years, say, men who served in the Imperial Forces, without pension? Have any of them come to Canada within recent years, and would you include that class also?—A. I think even the Imperials themselves would suggest not later than 1930. The great bulk of the movement was long before that.

Q. 1928?—A. 1928, Yes.

*By Mr. Green:*

Q. By the Hyndman report the date was extended to January, 1935, was it not?—A. That may be so. I have forgotten for the moment. I do not think you will find very many of them came into this country after 1928 or 1930.

*By Mr. Reid:*

Q. From the experience you have had, do you think it would be futile to make any further representations to the British Government?—A. I would not like to use the word "futile" because that might be regarded as disrespectful to the British Government.

I was definitely informed at the last British Empire Service League Conference, which I attended some eighteen months ago, by the representative of the British Legion there, who was also a member of the British House of Commons, that he considered that the British Government would not change their attitude in regard to that question. So, as far as we are concerned we are through. We feel there is no use. I have gone back quite often, and the answer is always the same. We feel there is nothing more we can do.

*By Mr. Hamilton:*

Q. Have there been any conversations or representations made to the two governments?—A. No, that is exactly the point, and I am asking you to consider that phase of the problem.

Q. It has not been considered in the past?—A. No, it has not.

*By the Chairman:*

Q. In that regard you support, in a sense, the suggestion made by Captain Browne-Wilkenson?—A. Of course. I made that suggestion first. I secured the approval of that at the British Empire Service League Conference eighteen months ago.

*By Mr. Reid:*

Q. In other words, something may be done if the governments get together?—A. In other words, the problem is here and it is serious. You, as the responsible legislators of this country, will have to consider that problem when you come to consider the major question of relief. You have got to think that you have a body of disabled men in Canada who are going to be a permanent charge no matter what the conditions are.

I am asking you to consider them as part of our problem. We, as a service organization, have reached the ultimate of our resources as far as securing any amelioration of their condition. I am asking you for your assistance to get them out of the impoverished condition in which they find themselves, because most of these men came with high hopes, and have served three or four years

[General Alex. Ross.]

in the army. They were looking for a land which held some opportunity, they came to Canada and they have lost all they had and are now broken and disappointed men. It is not a healthy condition for any community to have, with their children growing up under these conditions.

*By Mr. Mulock:*

Q. You are really dealing with Classes 1 and 2?—A. I am taking the problem as a whole. Classes 1 and 2 items are the important ones.

Q. What have you to say about Class 3?—A. That is a new one on me. That involves a question I am not capable of answering.

*By Mr. Green:*

Q. I do not think that submission would be agreeable to the great majority of Imperial ex-service men in Canada?—A. My experience is they are satisfied within a reasonable limit.

Q. I do not think the submission with regard to Class 3 would be satisfactory or fair to the great majority of Imperial ex-service men in Canada?—A. No, it would not be.

Q. Because while it may be a responsibility of the British Government, that does not help the poor unfortunate ex-Imperial?—A. No. I am pressing this to the extent to which we endorse their case, and we are whole-heartedly in accord with everything that can be done to assist them. But we do not necessarily have to accept all their ideas. We are placing the principle before you and ask your consideration and co-operation in helping us to do something about it.

*By Mr. Mulock:*

Q. You consider, General, that the Canadian government, because they encouraged the emigration of these men, shall we say as part of their policy, have a greater responsibility to the men brought in under that scheme up to the end of 1928 than they have towards Class 3 men?—A. I think so. Oh, yes, I am quite sure of that.

*By the Chairman:*

Q. Would it be part of your view, too, that there is some justification for regarding the responsibility as a joint one in that the British Government was also interested in the emigration of these men to Canada?—A. I am making that statement in this way; that I am not alleging this as a fact, I am stating that I have been so informed as a result of attendance at three Imperial Conferences where the matter has been discussed. I have had the statement made, and not contradicted, that there was a degree of encouragement. I would like that investigated. It can be investigated and determined. I am not making accusations, I am making a suggestion, and if so, then there is joint responsibility.

*By Mr. Mulock:*

Q. What do you mean in Clause 1 of your brief, Section D?—A. They are Imperial men of long service who had retired, on the reserve at the outbreak of war and called back.

*By Mr. Hamilton:*

Q. I do not know how many men would be involved, but would there not be a tendency among the veteran organizations to feel that if any substantial amount of money were allotted to take care of the Imperial men the Canadian men would perhaps suffer as a result of that?—A. That would undoubtedly exist.



Q. I am referring to the feeling among the Canadian ex-service men, whether they would feel they were being deprived?—A. You would find that that feeling would undoubtedly exist, and that is why we suggest it should be done on a joint basis. As a matter of fact, I may say that many of our conventions have gone much further than these gentlemen have gone in the brief and further than I have gone in my presentation. However, people occasionally pass resolutions without due consideration being given to them. We are trying to be moderate, and are simply saying that is a problem we would like you to consider, particularly you members from Toronto.

I want to leave one letter with you, which contains a very pathetic story, and which Mr. McLean has discussed with me. This letter was addressed to Mr. McLean, and reads:—

Dear Mr. McLEAN:

Further to our interview with this Imperial ex-service man who came into Saskatoon with his wife and five children, with only a few dollars, after turning over his S.S.B. farm to the board.

The Hon. R. J. Parker, Minister of Municipal Affairs for the Province of Saskatchewan, has agreed to make some provision for the maintenance of this family, presumably in Saskatoon as there is no shelter for them in the municipality to which they belong. The farm location is N.E.  $\frac{1}{2}$  of 20-49-8 W. 3rd and the N.W.  $\frac{1}{4}$  of 21-49-8 W. 3rd. Post office, Shell Lake, in the vicinity of Shell river.

You will remember, this man has a total disability of one arm, and G.S. wound in the opposite shoulder, in receipt of Imperial pension of 17 shillings per week, which is equal to the relief rate of his municipality, but not sufficient (\$17.00) per month to maintain a family of seven in Saskatoon. There is no house for him in the municipality and he has no residence in Saskatoon. He is not eligible for Departmental Relief, W.V.A. or Canteen Funds, and is typical of Imperial cases that we are anxious to obtain recognition for.

This man will never work, should never have been brought into Canada or settled on land, the best thing would be to return the family to England, but that entails a cost of around \$800.00.

A problem that will come up sooner or later in such cases is that even if the provincial government authorizes direct relief in an urban centre, the taxpayers of the centre have to provide the cost of educating the children that do not belong to the district, I am advised that this family alone coming in here will cost the taxpayers of Saskatoon approximately \$100.00 per year for each child, \$500.00 per year for a good many years yet.

Why did Canada let him in and put him on a farm? He cannot lift a fork. Then I say Canada has some responsibility for that man because he never should have got by. Here he is wandering on the face of the earth with a wife and five children.

*By Mr. Mulock:*

Q. Was he settled by the Canadian government?—A. Oh, absolutely, under the British Families Scheme, and accepted as a farmer, because he could not get the gun-shot wound in Canada.

Q. What I mean is, did he come out here and then go into it?—A. I imagine he must have come here under the scheme, it can be verified. It can easily be obtained from the Soldiers' Settlement Board.

[General Alex. Ross.]

*By Mr. Green:*

Q. The only class of ex-Imperial who gets the benefit of the War Veterans Allowance Act is that class of men who were domiciled in Canada before the war?—A. Yes, sir, they obtained all the privileges of the War Veterans Allowance Act. Imperials up to 1934 are entitled to departmental relief, the same as our own men.

Q. That is, those who are pensioners?—A. Who are pensioners, yes. That is the trouble in this man's case. In the municipality in which he lives, his pension, small as it is, is higher than the relief rate which that municipality pays, and he cannot support a wife and five children on that.

Q. What would you say about extending the War Veterans Allowance Act to these other men?—A. It is a problem of some moment for those men who are totally unemployed. We cannot send them back. The cheapest and best way would be to maintain them by extending the War Veterans Allowance to those at least who have been here long enough to have become Canadians in every sense of the word. I submit that for your consideration. The whole problem is a difficult one, but I do think consideration might be given to it

*By the Chairman:*

Q. That is, if they have become domiciled in Canada and are therefore Canadian charges?—A. Yes.

Q. The extension of the War Veterans Allowance Act to them might be considered?—A. Yes, as being perhaps the most effective way of looking after a problem which is going to exist until they die.

*By Mr. Mulock:*

Q. How old are those children?—A. All apparently of school age, I think. The ages are not shown here. I may say that the vice-chairman has seen this man and can vouch for the statements made. The children are all apparently of school age now, as the letter refers to the fact that it costs the city about \$500 a year to look after them.

Mr. MACDONALD: Mr. Chairman, the other day it was mentioned that there were certain organizations that wanted representations made. I have a very brief representation to make on behalf of an organization, and I am prepared to make it now.

The CHAIRMAN: Very well.

Mr. MACDONALD: I have been approached by an organization known as The Small Pensioners' Association of Brantford who have asked me to make certain representations on their behalf.

The committee that approached me made representations in connection with relief allowances which were given to small pensioners. I suppose that is generally known as departmental relief. It appears that in the city of Brantford the basis of relief is the same as that which is allowed recipients of municipal relief; that is, there is added to the amount of the pension a sufficient sum to bring the amount up to that which would be given under municipal relief. However, the maximum for rent for these small pensioners is \$15, and I am informed that there is no maximum under the municipal relief system. Secondly, there is no allowance made for clothing and medicine. That is to say, under municipal relief, the relief recipients get a certain amount of money and then they get an additional allowance for clothing and medicine. These small pensioners inform me that they get no such allowance, and there is nothing provided for them if they are sick or if their families are sick, and there is nothing provided for clothing.

The deputation felt that under the present arrangement the small pensioners are virtually cut off to that amount which is paid on relief. That is to say, the amount which they get is less than the municipal recipient receives to the extent of clothing and medicine.

The deputation also raises the question of retaining a portion of their pension. They recommend that the pensioners should be allowed to retain at least \$10 a month over and above that which they receive from the department. In other words, \$10 of a pension should not be taken into consideration in arriving at the amount which the pensioner would receive from the relief. One reason for that is that the pensioners are disabled to a certain extent and cannot compete with other workmen for casual labour. As I understand it, those who are on municipal relief can work and earn one-third over and above what they get from relief. I think the government allows them to earn one-third more, and I suppose under departmental relief small pensioners are allowed to earn one-third over, but the point which the committee made was that the small pensioner, on account of his disability, cannot compete with others for casual labour, and therefore they cannot get anything over and above their relief allowance. It is the amount I am referring to, and what the deputation asked me to present to this committee was that the small pensioner, on account of not being able to earn money and compete with other labour, should be allowed to retain \$10 a month over and above what he gets from the department.

The CHAIRMAN: A similar view is expressed by a number of other associations, including the Canadian War Disabilities Pensioners' Association of Winnipeg. They have the same problem, and have made the same representations from time to time to the authorities.

WITNESS: The point was raised yesterday by Mr. Myers, and I think perhaps I might say a word about it. Mr. MacDonald's statement is quite correct in that the small pensioner on departmental relief is very often in a worse position than the municipal recipient, not on account of departmental action, but on account of the fact that the municipalities do not play the game. When the municipality takes him off the roll, the municipality turns around and says, we will take the whole family off. The department has no facilities for extending relief to the whole family. The Dominion government is providing \$2,500,000 to the municipalities to assist in this relief work, and they appear to be not playing the game. I have suggested for a long time that there should be some co-operation between the Department of Pensions and the Department of Labour to bring these municipalities to time. That seems to me the obvious solution.

The question was raised yesterday as to abolishing it altogether. Let me say that I personally agree that in many cases the pensioner is in a less advantageous position, but I have told previous ministers, and I repeat it, that there is no chance in the world of ever changing that system without a tremendous repercussion. These pensioners think they are in a little different class. They appreciate the government relief as something which recognizes their service, and they would not let it go under any consideration in the world. So you have got to accept it as an established fact and try to make it as good as possible.

The CHAIRMAN: Along very much the same lines as General Ross has spoken of, the secretary of this committee has received a telegram which I think I should read to the committee. It comes from St. Anne de Bellevue and is signed by C. P. Gilman, Dominion Adjustment officer, Army and Navy Veterans in Canada. It is addressed to the secretary of the committee on pensions and soldiers' problems, Parliament Buildings, Ottawa, and reads as follows:—

Army and Navy Veterans in Canada protest in most forcible manner possibly the opinions of Richard Myers of Amputations Association, as published in *Montreal Gazette* to-day, if reports correct. This in regard

[General Alex. Ross.]



to stoppage of allowances for small pensioners and also to opinions re non-extension of veterans' allowances to men under sixty who are unemployed. Please register this protest.

*By Mr. Hamilton:*

Q. Before we get away from the point that Mr. MacDonald brought up I would like to understand this. I presume this must vary from province to province, and municipality to municipality, depending on the different regulations. What are the reasons why he suffers? I take it that one factor is clothes, another medical attendance on himself and his family, and possibly rent. Are those the main points?—A. Those are the main points.

Q. Why is that?—A. In the first place, the department has established the principle that they will, in all cases, pay up to the limit of the municipal relief. As a result of the Hyndman investigation the department has also undertaken in certain cases where the municipal rate of relief is too low to sustain life to augment the allowance to the small pensioner. In certain places he is better off than civilians, but in many cases he suffers by reason of the fact that the municipality will not recognize his wife and children as subjects for medical assistance. In some municipalities they go so far as to say they will not recognize the right of his dependent children on approaching adult years. The poor man has got to support them out of his pittance. Also in regard to the question of clothing, the department has in the last two years made a great improvement in the matter of clothes and there are not so many complaints. The municipalities have almost uniformly neglected to recognize any liability for clothing for these people. They simply say, you are a charge of the Dominion government, go to them and get everything from them. They do not recognize the fact that they are getting relief to the extent of \$2,500,000 from the Dominion government. If he is residing in a place where there is no hospital, he does not get medical care.

Q. He would have to depend upon the municipality?—A. Yes. In places where the department maintains a hospital, he is entitled to treatment if he is a pensioner, but he has got to be there.

Q. It seems to me that if the department does not make a cash allowance to include these things which municipalities give in the form of goods, that that is where they are falling down.—A. There is another point, that the man has no opportunity of relief work. They say, You belong to the Dominion government, we will not let you work.

Mr. MacDonald: That is quite general.

WITNESS: That is quite general. The recommendation is one which I think should be given consideration. The British government, in administering their unemployment insurance and their unemployment assistance, has always recognized the exemption to a pensioner. I think it is a sound principle and, as recommended by the Hyndman report, should be accepted.

Mr. MacDonald: That is part of the recommendations that are referred to; that they should be allowed \$10 of their pension over and above what they get from relief as they are not in a position to compete with other casual labour.

The CHAIRMAN: You mean that that should not be regarded as income?

Mr. MacDonald: No.

WITNESS: That is the policy of the British government.

The committee adjourned at one o'clock, to meet on Tuesday, May 5, at eleven o'clock.

## APPENDIX "A"

(Copy)

April 4, 1935.

Mr. Justice J. D. HYNDMAN,  
Chairman Veterans' Unemployment Commission,  
House of Commons,  
Ottawa, Ont.

Dear Sir:

We have to thank you for your telegram of April 2 and much as we would prefer appearing personally before your commission we are none the less appreciative of the opportunity afforded of setting before you in writing our views and recommendations. These, in our particular case, concern the small pensioners, men who are to-day facing a discriminative and difficult labour market with a two-fold handicap—those of age and disability.

To-day, even from cursory glances at trade conditions, it is becoming more and more apparent that industry cannot absorb men of 47, which is the average age of the veteran. Both the civilian and the physically fit veteran of that age find the fight for employment an almost hopeless one. But the disabled veteran, sustaining numerous and varied physical handicaps which are the aftermath of war, who can seldom conform to the strenuous requirements of labour, find the market is practically closed to them. This might be a temporary condition, capable of improvement, were it not for the factor of age.

However, even with that factor, we must not too hastily conclude that small pensioners as a body are incapable and therefore unemployable. For the most part it is our contention that they must be regarded as economic units whose faculties are more or less impaired. We do not of necessity scrap a machine that is weakened by excessive service; we would rather still use it to haul a lighter load. That principle applies to disabled veterans, many of whom are capable of light employment.

For them we have decided that selected or sheltered employment is desirable. The term is unfortunately placed out of court when discussing individualist and competitive business; but it is, we suggest, admissible in speaking of the lighter tasks that are attached to the government and public services.

A general classification brings the disabled veterans under three heads:—

- A. Men of intelligence who in some cases have been trained along special lines. Their place in the business world has been taken by youth.
- B. Men of ordinary but no special training who are capable of work requiring only slight exertion.
- C. A general category of men who, under modern demands as to efficiency and endurance, must, unfortunately, be classed as unemployable, though we still believe that some simple form of endeavour could be found for them.

Our recommendations regarding all of them must be subject to the principle that on no account should they be deprived of the benefits of pension legislation; but we submit some points which we hope may play a part in leading your commission to a satisfactory finding.

For your selection and approval they are as follows:—

1. The present federal relief scheme places the disabled pensioner in the category of a fit man by deducting the amount of his pension from the amount he is entitled to receive in relief; whereas a pension should be considered as compensation for a disability, needful to meet the expenses thereof, and that therefore no amount covering pensions up to 25 per cent should be deducted. Or the scale of relief in force in 1932 should be restored.
2. All pensioners receiving relief should be registered for selected employment as specified in the following point 3; arranging them into the groups described as A, B and C. In this connection the Department of Pensions should institute a special section of its various units to deal with the unemployment of pensioners.
3. Selected employment should be found for disabled veterans wherever possible according to age and standard of efficiency as ascertained from groups A, B and C without regard to political favours.
4. It is desirable that the age qualification for war veterans' allowances be reduced to 50 years. This would cover a number of men classed under group C.
5. The introduction of a new pension scale based on the extra handicap imposed by severe modern conditions. This would obviously imply an increased indemnity for age.

While we are discussing a scheme for unemployment, and endeavouring to be constructive, may we state that it would be conducive to equity if men receiving from eighty to one hundred per cent pensions were retired from all government and public services. This would effect economies and make some provision for men we have classified under groups A and B.

At the present time there are very many of these highly pensioned men occupying positions in all government departments. But the existing situation is vastly different from what it was in 1919. Then the preference for highly pensioned men may have been justified because the small pensioners were 16 years younger and employment for them was comparatively plentiful. Conditions now, however, should not justly permit of double indemnities as exemplified in these cases—there are one hundred per cent men that we know who are receiving government salaries plus allowances—when so many small pensioners are unemployed and in distress.

This is just a synopsis of our views. We are still hoping for an opportunity to explain them at greater length.

Yours respectfully,

Wm. McGEE,  
*Secretary*

Disabled Veterans' Association,  
Windsor, Ont.



## Appendix B

### WINDSOR UNITED VETERANS' OPEN FORUM

WINDSOR, ONTARIO

Secretary's address:

158 Crawford Avenue,  
Windsor, Ontario.

APRIL 6, 1936.

(Brief)

The Chairman and Members,  
Parliamentary Committee on Veterans' Problems,  
House of Commons,  
Ottawa, Ontario.

Mr. CHAIRMAN and GENTLEMEN:—

I beg to advise you that the writer has been duly delegated by "resolution" of the above named body of veterans, strongly supported by the Windsor National Veterans, Incorporated, to place before your honourable committee some of the views of our joint memberships with respect to veterans' problems as we see them from actual contact.

First.—We are fully convinced that the average veteran and his dependents have unduly suffered in the past years, not all of which suffering has been brought about by the economic conditions of the past six years. The very exacting conditions that the veteran was called upon to endure during service has taken its toll from the vitality of the veteran class, they have prematurely aged from ten to fifteen years, and, as a consequence, they find it most difficult to compete with those of the non-veteran class, industrially due to the modern machinery age and the growing youth of our country, then we must quite frankly admit that the veteran class are unduly outclassed in the general labour market of to-day, and very naturally, the veteran class look to the governments of Canada to fulfil their promises of 1914-1919, that is that the veteran who gave his all in the hour of need would be adequately cared for on his return to Canada and civil life. We as veterans would like to say that those promises of the war days have been carried out, but, we cannot, they should have been provided with at least the right to work preferentially with the government services of Canada, but they have not had this opportunity to any degree commensurate with their services and sacrifice to the country of their birth and choice.

We then can justly arrive at the point and say, the veteran class of Canada are fully aware that the past governments have undertaken what is known as "work surveys" to solve the unemployment in Canada, so many commissions have dealt with this matter, that we arrive at the point and say, that the governments have all this very necessary data before them and have had for years, then, we as veterans have a just right to ask that any recommendations now in the hands of the government, which will better the conditions of the veteran

and his dependents be immediately placed in operation, the veteran class want *work*, not *charity*, they want the just right to work, at fair wages, which will lead them to independence and away from "relief assistance." And we are fully convinced, that the "financial bogey" should not be permitted to delay any such action any longer, and, we are lead to this reasoning because of our war experience and how very easy it was to raise money for that purpose, and we rightly assume, that should war break out to-morrow, money would be found to finance such a project, whether it was to our liking or not, then we arrive at the point where it should be possible to find money for gainful employment for the men of our country.

Much has been written and spoken with respect to the burning question of pensions and treatment for the veterans of Canada, and to deal with this matter from the viewpoint of the layman endless worries would prevail, we are fully convinced from actual experience that to deal with such matters, both in the best interest of the country and the applicants, that only persons of full experience in the matter can do justice to the country and the applicants, and in dealing with this subject, my friends and comrades are fully satisfied that I am able to do them justice in the matter because of my actual fifteen years of experience in dealing with such matters for the applicants directly to the governmental departments concerned; namely, the Canadian Pensions Commission, the Department of Pensions and National Health, the Pensions Tribunals, the Pensions Quorums and the Federal Pensions Appeal Court, it has been necessary for the writer to go to the Federal Pensions Appeal Court for permission to reopen certain cases that have been finally disposed of and permission has been granted after written argument, this was done quite recently, this is noted as evidence of good faith to your committee.

First.—Let me please say that we are glad to say that some very definite improvement has been shown to the average applicant in the last two years, especially would we say this has been very noticeable in the nature of the correspondence between the applicant and the Canadian Pension Commission, however, may we most respectfully suggest that further improvement can be made by the immediate simplification of all approaches and processes in connection with pension matters to the applicant—remove the red-tape and barbed wire entanglements at present existing.

Let me here illustrate one very specific instance, which we as veterans very much deplore. "A man makes an application for a pension and treatment to the Canadian Pension Commission, he is advised later, that the commission have considered his case and that on the evidence before them they are unable to grant pension." The case is then referred to a quorum of the commission who hears the man and his evidence and in most cases the evidence of the doctors who have treated the man, the evidence is fully considered by the then sitting quorum, the man is given an award of "entitlement" for his claim, but, the man is later advised that the Canadian Pension Commission has taken an appeal against that decision rendered by the quorum of the commission hearing the case. This procedure to the average veteran and the public is more or less ridiculous, here we have one section of a duly appointed commission appealing against the decision of the other section of the legally appointed members of the same commission, this certainly never was intended by the parliaments of Canada, because, the parliament of Canada was satisfied to enact section No. 73, and this was the section that was duly supposed to give the applicant the benefit of the doubt, but, this same section No. 73, has never served the purpose for which it was placed in the Act, this has been fully argued and admitted by the present Minister of Pensions.

Let us please in the best interest of veterans, illustrate a second important matter in the matter of pensions applications; namely, a man makes an application for pension and treatment. Let us then say the man goes through the same procedure as in the foregoing paragraph to a point where he arrives before a quorum of the board. All the evidence is duly placed before the quorum, the evidence of a reputable doctor is placed in evidence, the doctor himself is sworn and gives his evidence, he then is asked to produce his record of entries in the case, he cannot produce them although he may state that he has treated the man for a long number of years, and, that he has personally known the man prior and subsequent to his enlistment, and because he cannot after sixteen years produce records, the man must suffer and the doctor's evidence cannot be accepted, this should not be the case with such professional men, no man should be expected to keep such records for such a long period of time, the average business man does not keep records for a longer period than seven years, then it is reasonable to ask, why should the doctors? It is unreasonable, and we as veterans believe, in cases of this description that the remedy should be the application of section No. 73, and we honestly believe this was the intention of the parliamentary committee who dealt with this important matter in 1933.

We do not say for one moment that every man who served his country should have a pension, but we do most respectfully submit that, where a man is unduly suffering, and most veterans are, and that a reasonable doubt exists in his case, that he should be examined by the department, the expense to be borne by that department, to determine if possible that the disability or disablements of which the man is suffering can be traced to his service to the country, surely it is not asking too much when we ask the government to assume some of the onus of the man's condition. At the present time the whole of the onus is on the shoulders of the man to prove his case. This is a mighty hard job after being discharged from the army probably 16 or 17 years, with the documents all in the possession of the government.

### *How Can We Then Help the Veteran in His Present Plight?*

We respectfully submit that one of the first actions upon the part of the present government should be to furnish immediate work for the veteran class. Failing this simple remedy, we most respectfully urge upon the government that immediate steps be taken to restore to them all former relief cuts and thereby place them in the same position that they were in 1930, because, under the present existing regulations the veteran class are in an inferior position than the non-veteran class in the eyes of the government and the people of Canada, and it is a well known fact that the man in receipt of a small pension is even in an inferior class to the man with a pension sufficient to keep him and his dependents. The man with the small pension has been "budgetted" for relief assistance as having an income, he therefore has suffered even as a pensioner. His pension, given for either wounds or disease, has been used as part of his relief, and whilst the governments have been duly responsible also for the non-pension class they have been a greater expense to the government than the pension class, because the government has "budgetted" the small pensions of the veteran, and we believe and believe honestly that this condition should not exist, and the government should make an immediate change in the best interest of the veteran and his dependents. And in this connection, let me please state that when we speak of the veteran class we mean all of those veterans legally domiciled in Canada prior to January 1, 1936, *Imperials and Canadians*, it is our expressed opinion that veterans are veterans and should all be treated alike with respect to the regulations and orders of the government departments dealing with veterans.



*War Veterans Allowance*

We are of the opinion that the present age limit contained in this Act should be lowered to read 50 years of age and not 55 years as suggested by the Minister of Pensions, because we are of the very definite opinion that the premature aged condition of the veteran warrants such a change, and that the word "may" in the Act should be changed to the word "shall" because we are convinced that the word "may" has been the means of denying the benefits of the Act to veterans in the past and should be avoided in the future and, after all, the use of the word "shall" might bring about a few more pensioners, but the cost would not be as great as appears at first sight, because a large number who would enjoy this change would be taken off the "relief assistance" rolls who are at present thereon.

We are also of the opinion that the full amount of cash as set forth in the War Veterans' Allowance Act should be determined on the "minimum" and not the "maximum" as at present payable to the applicants: namely, for single men and widowers \$480, and for the married veteran with dependents \$720, from all sources. We are, however, prepared to admit that this should not be applicable to persons in either private or state employment; they should be encouraged to continue with their employment.

*Pensions Appeal Court*

This court has proved in the case of the veteran to have been a farce. The percentage of successes have been so limited that we might better have been without it, yet, on the other hand, it has been used to good advantage by the Canadian Pension Commission, and to be quite specific this is the very court that the veteran had built up some hope upon. The veteran had thought that if ever he had a chance under section 73 this was the court where he would eventually get it, but he was sadly disillusioned, especially when a retroactivated pension was hanging in the balance. This court shattered all the hopes of the veteran class, and we do not think any improvement will take place even if the suggested change of the Minister of Pensions takes place, that is to set up an appellate division of the Pensions Commission. Again they will be in the position of appealing their own judgments to their own court. Surely this condition should not continue.

*Veterans' Bureau*

No good reason has been shown to the veteran and his dependent why, after his case has been referred to the Veterans Bureau by the Canadian Pension Commission, that it should be two or three years before his case or her case would come before a quorum of the board for hearing. This has been a most common practice and has very naturally been one of the chief causes of discontent within the veteran ranks and has reacted to the general disadvantage with respect to feeling towards the Canadian Pension Commission in the past and should immediately be remedied. The case should be more promptly dealt with, and we would most respectfully suggest that increases in the staffs of the veterans' bureaus take place immediately, and that the most experienced persons obtainable be appointed thereto, persons who have had years of service in the class of work and not laymen. This is important to the veteran, and may we respectfully suggest that these men who may be appointed shall only be appointed after the positions have been duly advertised and examination held so that the most qualified may be appointed. This will somewhat restore in the minds of the veteran some hope for the future. Those persons so employed should in our opinion be persons who saw actual front line service. They are then well acquainted with the sufferings and conditions that the men endured; they are not or will not be imaginary in their minds. This, too, is very important.

*Hospitalization and Treatment*

We are of the honest opinion that hospitalization and treatment should be afforded by the Department of Pensions and National Health to all veterans residing here in Canada, and that they should not as at the present time be forced to go to the municipalities for such treatment because they are not in receipt of pension for the conditions of which they are suffering. I could illustrate this in my own case. I was wounded by shell fire. I have otitis-media, but I must go to the municipality for treatment although a pensioner. Others must do the same. This should not be so. I should and the other fellow should be treated by your department.

*Summary of Suggestions*

1. That all approaches and processes in connection matters be immediately simplified by the removal of all red-tape and barbed wire entanglements.
2. That which is considered the greatest of these entanglements is the Federal Pensions Appeal Court. It should be finally dispensed with.
3. It has been the instrument by which the Canadian Pension Commission has taken considerable advantage of in the matter of appealing awards for pension, this never was intended.
4. The proposed substitution of an appellate division for the Federal Appeal Court should not be allowed. It would be nothing less than a continuation of the present unsatisfactory set of conditions, which must be avoided at all cost.
5. No reasonable attempt has been made in the past for the proper application of section No. 73 of the Pensions Act. It was presumed by the veteran, when this court was set up, that a reasonable application of section No. 73 would take place, it has not.
6. That a general speeding up process be undertaken by the so-called Veterans' Bureau, no just reason exists for the long delays between the time a case is referred to the Bureau and the actual time of hearing, sometimes two or three years.
7. That to avoid these long delays more commissioners, advocates and assistant advocates should be appointed without delay, and, men with the full understanding of the veteran problems and a full knowledge of service conditions in France be given preference.
8. That the "financial bogey" should not be permitted to delay any such action, because the sooner these cases and further cases are disposed of the cheaper it will be for the country in the matter of administration costs.
9. That there should be no right of appeal by the Canadian Pension Commission against a decision of a quorum of that commission whose decision should be final, it should not be appealed by the parent body.
10. That where an application has been refused by the commission, the applicant shall have the right to advance his case to a quorum of the commission without any undue delays.
11. That this simple procedure would eliminate the necessity of any other appeal procedure.
12. That no official closing date be set for filing pension claims.
13. That the present system of placing the full "onus" of proof on the shoulders of the veteran, should be reversed and that the full "onus" of proof should be a responsibility of the Canadian Pension Commission to prove that the applicant was not entitled to pension and treatment from the departments.
14. That where a doctor gives a written statement, supported by his evidence under oath, and, not being able to produce records his evidence shall be accepted in favour of the applicant by the commissioners hearing the case.
15. From actual experience in dealing with such matters one often finds the sincerity of the applicant and his medical man very much doubted and their

evidence not allowed both by the commission and a quorum of the commission hearing the case, due in most cases to the fact that the doctor has destroyed his old records covering the case, and one should remember that the Great War ended approximately 18 years ago.

16. Wherever we find the word "veteran" contained herein it should be understood to mean Imperials and Canadian ex-Servicemen.

17. We are of the opinion that all the rules and regulations set apart for veterans should also apply to all Imperials who were residents of Canada as of January 1, 1936.

In conclusion gentlemen, let me please say, that we as veterans, banded together in our own cause, feel that we should at least have all the rights and privileges granted to us by statute and otherwise, and, in submitting this simple "brief" we do so with the full confidence that we are acting in the best interest of those who we represent to the very best of our ability, and, in return, we simply ask of your honourable body that you at least consider our proposals now before, and in closing, I would just like to make this remark for your further consideration, Why are the veterans divided? The answer can be best furnished by those who are privileged to appear in person before your parliamentary committee.

Respectfully submitted,

WILLIAM BETHELL,

for the joint bodies: Windsor United Veterans' Open Forum;  
Windsor National Veterans' Association Incorporated;  
Windsor, Ontario.

WEB/3

NOTE:—The committee respectfully asks me to state, that, we are assuredly opposed to any curb being placed upon pensions of the retroactive class.  
William Bethell.

## WINDSOR UNITED VETERANS' OPEN FORUM

Secretary's Address,  
158 Crawford Avenue,  
Windsor, Ontario.

April 25, 1936.

To the Chairman and Members,  
Parliamentary Committee on Veterans' Problems,  
House of Commons,  
Ottawa, Ontario.

Mr. Chairman and Honourable Members:

*Re: Amendment to Section No. 72  
of the Canadian Pension Act as proposed*

I have the honour by direction to inform your committee that the membership of our Forum look with alarm upon the proposed amendment to section No. 72. If amended in its present form it would give to the department concerned the full right to say who and what person could and should act as the agent for an applicant for pension. We feel and feel very strongly that the person or persons seeking pension should enjoy the right to name and appoint his own agent or representative to prepare his case for submission to the proper authori-



ties and that the person so designated by the applicant should have the just right to examine the man's file for the purpose of preparing his case, as at the present time, in the office of the department. We therefore "protest," any such drastic change as at present proposed to limit the right to the department to say who should and who should not have the right to view a person's file, providing of course that notice in writing has been served on the representative of the department, duly signed by the applicant for pension so designating his agent or representative to so act for him.

We as veterans very much regret to note that the Chairman has stated, on page 3140 of report No. 5, "quote":

I know certain chaps who do nothing but agitate; and they go over to the man and say, Do you know what doctor so-and-so said about you? This is what he said, I got it from your file. May I ask this question of the minister: Was it possible for these persons he speaks of to get a person's file without written authority from the person or pensioner? Personally, I have never heard of such a thing, and I and our membership are at a loss to understand how it was that unauthorized persons could view a person's file without written consent.

Speaking personally, and I have been for the last fifteen years doing pension adjustment work, I can honestly say that I have never been able to get any information from the departments without the proper consent and I believe that no person, unless properly authorized in writing, should be able to look into the records of a person's file, but where a person is properly designated as the agent or representative of the person for the purpose of preparing an argument for the pensioner or prospective pensioner he should be given every assistance by the local representative of the C. P. C. or the D. P. & N. H. when the written consent is placed before them.

We do not believe and cannot be a party to the proposed change that would give the department the sole right to say who should act for any person, but we will agree that persons granted such a right should be men with a full knowledge of the work before them, they should be men who have had a working knowledge of what is required to properly prepare a case for submission to the departments concerned—the submission must be both fair to the applicant and the departments dealing with the matters, and this can only be done by such men of experience as I write of. And again let me please point out and with every respect to your honourable body, all of the best brains for this class of work is not within what is very generally known as the "Big Five" of the soldier movement. This can be best understood when one considers the statement made to your committee by General Ross of the Canadian Legion when he stated to your committee "that there were around 160 veterans' organizations in the city of Toronto." That statement applies also to other cities but in lesser numbers, and I would just like to ask of you this simple question, "Why does this condition exist that the General Ross speaks of." Surely, gentlemen, there must be an answer somewhere.

Trusting that your honourable body will very fully consider this our "protest" against any change of the procedure as now contained in section No. 72 as proposed, please.

CC to Mr. Norman McLarty, K.C., M.P.

Mr. Paul Martin, M.P.

Mr. C. G. MacNeil, M.P.

Respectfully submitted,

WILLIAM BETHELL,

Secretary.

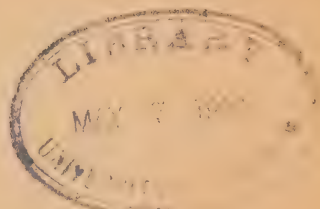
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PROBLEMS, SPECIAL CITE  
SESSION 1936

HOUSE OF COMMONS

SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS



MINUTES OF PROCEEDINGS AND EVIDENCE

No. 14

WEDNESDAY, MAY 6, 1936

WITNESS:

Mr. H. S. Stone, representing the Ex-Prisoners of War Association,  
Toronto, Ont.

OTTAWA  
J. O. PATENAUDE, I.S.O.,  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1936





## MINUTES OF PROCEEDINGS

WEDNESDAY, May 6, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4 o'clock, p.m. Mr. Thorson, the Acting Chairman, presided.

The following members were present:—Messrs. Brooks, Cameron (*Hastings South*), Emmerson, Green, Hamilton, Lennard, Macdonald (*Brantford City*), MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Quelch, Reid, Streight and Thorson.—16.

The Chairman read a telegram from the Ex-Prisoners of War Association expressing their desire to make representations to the Committee to-day.

The Chairman also advised that a reply had been received from the Disabled Veterans' Association, Vancouver, in reply to the wire from the Committee asking them to submit a brief instead of sending delegates. Their brief will be sent.

Mr. H. S. Stone, representing the Ex-Prisoners of War Association, was called and examined.

Mr. Stone filed a brief which was ordered printed as Appendix "A" to to-day's evidence. Witness retired.

Mr. R. H. Green, representing the Ex-Prisoners of War Association, was in attendance.

The Chairman stated that Captain E. A. Baker, representing the Blind Veterans, and Mr. Lyon, representing the Sir Arthur Pearson Club for Blind Soldiers and Sailors, will be heard to-morrow. Also that General Ross will be given an opportunity to complete his presentation.

The Committee adjourned at 6 o'clock, p.m., to meet again Thursday, April 7, at 4 o'clock, p.m.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

MAY 6, 1936.

The special committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 4.00 p.m., Mr. Thorson, the acting chairman presided.

The ACTING CHAIRMAN: Order, gentlemen. On April 28, Mr. Horace Pickering, president of the Ex-Prisoners' of War Association of Toronto wired to the minister as follows:—

Beg permission to present case prisoners of war pension problems before soldier committee stop kindly advise when it may be possible for our delegation appear before it.

On April 29, the minister wired Mr. Pickering as follows:—

Special committee on pensions will be glad to hear representative your association early next week understood your representative will appear on same basis as other associations no expenses have been paid for any witnesses suggest your association file brief with representation stop the committee will give careful consideration to such brief as you care to submit.

The representatives of the Ex-Prisoners' of War Association are with us to-day. They are Mr. H. S. Stone and Mr. Robert H. Green. Perhaps the committee will hear them.

Mr. REID: Before we hear them might I ask if there is any reply to the telegram you sent to the disabled veterans of Vancouver?

The ACTING CHAIRMAN: Yes. I had a reply from them this morning which I have not had a chance to peruse carefully yet. Perhaps Mr. Stone and Mr. Green will come forward.

Mr. HARRY STONE, called.

Mr. ROBERT H. GREEN, called.

The ACTING CHAIRMAN: The committee will be glad to hear you, Mr. Stone.

WITNESS: Shall I start by reading the brief I have here?

The ACTING CHAIRMAN: Whatever representations you desire to make will be acceptable to the committee.

WITNESS: We have here a copy of a brief which we consider represents the cases of all prisoners of war. It is entitled, "Reparations for Military Ex-Prisoners of War" and reads in part as follows:—

Canada received certain monies for the purpose of compensating Canadian citizens for damages caused by acts of illegal warfare.

Now, questions have been raised as to whether or not Canada actually did receive that money. We have here what we consider ample proof. This is a letter signed by the Secretary of State, Honourable Mr. Cahan, in the year 1932:—

As shown by the return the amount received from Germany to March 28 last was \$26,672,246 on account of all reparations payable by Germany under the terms of the Treaty of Versailles.

There is definite proof that Canada actually received \$26,000,000 odd.



*By Mr. Malcolm McLean:*

Q. What is the date of that letter?—A. April 4, 1932.

*By Mr. Reid:*

Q. Did he give the expenditures at that time?—A. He did.

Mr. MALCOLM McLEAN: I do not think the question is in dispute.

Mr. REID: No. No one has disputed the question.

*By Mr. Reid:*

Q. Give us the amount that was paid out?—A. The amount paid out on reparations?

Q. Yes, that Mr. Cahan gave at that time?—A. Oh, yes. I will read the whole paragraph:—

As shown by the return the amount received from Germany to March 28 last was \$26,672,246 on account of all reparations payable by Germany under the terms of the Treaty of Versailles; and the amounts paid out by the government of Canada for which Germany paid the said sum as reparations, aggregate \$704,912,472.

This appears to be the total cost of the war.

Mr. MALCOLM McLEAN: Oh, no. Did you say \$704,000,000?

WITNESS: Yes.

Mr. MALCOLM McLEAN: The war cost twice as much as that.

WITNESS: As regards the reparation only.

Mr. MALCOLM McLEAN: The reparations were for illegal acts of warfare—that is such acts as the sinking of the Lusitania?

WITNESS: Yes. Now, I have a copy here of an extract taken from the last commissioner, Mr. E. M. McDougall, K.C., on maltreatment of prisoners of war. The extract reads:—

Compensation may be claimed from Germany under Article 232 in respect of the total damage under the following categories.

Now, these are listed in four different sections. The first three sections deal solely with civilian corporations and civilian individuals; the fourth section deals solely with maltreatment of prisoners of war. Each section bears, apparently, the same weight. Damages caused by any kind of maltreatment of prisoners of war—any kind of maltreatment. Now there is no doubt that can possibly be raised as to the legitimate claims of prisoners of war; they should be given similar consideration to that accorded to civilians, and that is all the prisoners of war are asking for—that they be accorded similar privileges of hearing, and that has been our main difficulty. A lot of our chaps have not had the opportunity of presenting claims.

The next chapter reads as follows:—

Germany made payments which up to March 28, 1932, totalled \$26,672,246, of which some \$8,000,000 to date has been paid out in claims. Less than 2 per cent of the \$8,000,000 has been paid to military ex-prisoners of war.

Now, the chapters or sections in this extract on maltreatment do not state that prisoners of war are to be discriminated against. The figures speak for themselves. Here is an award totalling \$8,000,000. The prisoners of war received less than \$160,000 out of that \$8,000,000. Now, I would say that the total number of prisoner of war claims is about equal to the total number of claims of corporations and civilians.

[Mr. H. S. Stone.]

*By Mr. Reid:*

Q. Might I ask if the claim of the prisoner of war would be distinct from a claim for pension?—A. Absolutely.

Q. I wanted to get that clear. I wanted to get a picture of the whole thing?—A. Mr. McDougall makes that very clear. Mr. Friel and Mr. Pugsley also made it plain in their reports; although an applicant for compensation for maltreatment might possibly have a claim for pension the two different questions covered separate entities. Three reparation commissions have conducted hearings—Mr. Friel and Mr. Pugsley—I believe I should make that read Mr. Pugsley and Mr. Friel. Mr. Pugsley, I understand, died in the course of his commission and Mr. Friel succeeded him, and Mr. McDougall followed. The first and second commissions dealt chiefly with civilian claims. There are in the first and second claims approximately a dozen prisoner of war claims who, by the way, received similar treatment to that which was accorded to civilians.

*By the Acting Chairman:*

Q. What opportunities were given to former prisoners of war to appear before those two commissions?—A. I have a note here which states that in 1925 Mr. Friel says—this is P.C. 910, page 12, Reparations Vol. 1—I do not suppose you want me to read the whole thing; this is just an extract: "That doubt has arisen in respect of the claims as advertised for, which are those arising through the destruction of life and property."

Prisoners who came back naturally felt that they could not apply under the term "destruction of life" and they had no property to lose. Therefore, they figured they were not eligible, and the reason they figured they were not eligible was that the advertisement was very plain: a man had to prove destruction of life or property.

Q. Your complaint is as to the terms in the advertisement?—A. Yes, exactly; and naturally the feeling spread out throughout the country among prisoners of war, after having heard that these reparation funds were in existence, that a man must be dead in order to be able to present his claim, and a dead man could not do that. Therefore, they were out of it.

*By Mr. Hamilton:*

Q. Do you know if any who died in prison did have claims put in?—A. No, they were ruled ineligible; only an applicant who could personally present his claim was acceptable. That is, if a man were mentally incapable of presenting a claim he was not eligible for compensation.

I have already stated that of those three commissions only 2 per cent of the \$8,000,000 has been awarded to prisoners of war, and three reparations commissions have conducted hearings, Pugsley, Friel and McDougall, respectively. The first and second dealt chiefly with civilian claims, with only approximately a dozen military ex-prisoners of war claims. The first two commissions made adequate awards in all cases.

For purposes of comparison, gentlemen, here is an extract taken from the Honourable W. Pugsley's report: There were nine cases disallowed. The reason why one case was disallowed was that the soldier died. Evidence was submitted to the Pension Board *re* pension for widow. The second was due to lack of medical attention. Nothing other than that. The third was disallowed because of loss of personal effects. The fourth was for the loss of personal effects. In regard to the fifth claim there was no evidence of maltreatment. The sixth was dealt with by the British Reparation Commission. The seventh, no evidence of maltreatment; claimant has pension and good position. Eighth, for death of son while prisoner of war; father has pension from British and Canadian governments. Ninth, claimant did not appear before commission.

Now, anyone who would attempt to state that those decisions were unfair would not be fair himself. They were fair decisions, and good reasons were given why these cases were dismissed. Any fair person would have to dismiss these cases. Now, there were nine cases dismissed and eight cases awarded. The awards were \$2,000; \$32.50; \$3,000; \$15,000; \$4,000; \$2,500; \$6,000 and \$3,000. In other words, in eight cases the claimants received awards totalling \$35,000. Now, those awards were on a par with civilian individuals. If they seem out of the ordinary then you will have to picture that the awards made to civilian individuals were out of the ordinary, which we do not believe was the case.

*By Mr. Reid:*

Q. Have you any information regarding the claimants and the decisions?—  
A. We have all these claims, any particular claim you would like to see. Mr. Green will look it up.

*By the Chairman:*

Q. Where would that information be found?—A. "Reparations" Volume 2.

*By Mr. Mulock:*

Q. Could you give us a few examples?

The CHAIRMAN: Select an example or two.

Mr. HAMILTON: To what publication is the witness referring?

The CHAIRMAN: Reparations, Volume 2, Report of the Royal Commissioner appointed by His Excellency the Governor General in Council under the provisions of Part 1 of the Inquiries Act, dated at Ottawa on the 14th December, 1927.

WITNESS: I will read Case 1367. This is the case of the man who received \$15,000:—

Claimant is a British subject born in Belfast, Ireland, 1895, who came to Canada in 1913 to reside permanently.

When war broke out he joined the 3rd Battalion, Canadian Expeditionary Force, in Toronto, where he was then working and making \$130 per month with splendid prospects for advancement.

He was severely wounded and captured by the enemy in one of the engagements in April, 1915, and taken to a hospital in Germany, where he was kept three months and then sent to work.

Understand, gentlemen, this man was taken to a hospital. The majority of the prisoners of war did not have that opportunity.

He refused to work in the manufacture of enemy munitions and for that was beaten and put in a dungeon in solitary confinement for three months. At the time he was put in the dungeon he was in good physical condition and had normal eyesight. When taken out of his solitary confinement he was in the last stages of starvation and had lost the sight of both eyes. With others he made an attempt to escape. Some time after being re-captured he was brutally and severely beaten. This practically finished him.

His condition is graphically set out in his claim:—

Although before injuries, healthy, athletic, capable person with expectation of long life and happiness. Now a permanent cripple. No future, ill health, unable to marry, work, read, think or enjoy exercise or any other form of amusement, with probability of requiring an attendant or nurse during the remainder of his life and con-



stant medical care. This seems a most deserving case; the claimant is now totally dependent on the care and financial support of his mother without whom he might have starved. The medical record bears out the description.

The result of injuries is given as Disseminated sclerosis of the spinal cord. Totally incapacitated ever since he left the prison camp. In regard to employment in the general labour market, he is 100 per cent disabled. The probable and further duration of such incapacity is permanent and progressively worse. The vision of right eye is impaired fifty-five per centum (55 per cent) and the left eye fifteen (15 per cent). Hearing defective; worse in left ear.

It would serve no good purpose to give further details. I am setting these down because he has only been given a trifling pension.

That is the usual experience of prisoners of war. They have no medical history to bear out their pension claims.

I cannot understand the action of the Board of Pension Commissioners. It is probably none of my business, but having gone over the record in this office several times; having heard what was sworn to and alleged by the man's comrades and having persons of authority who know the circumstances and especially having had the claimant before us who was the most pitiful wreck of man I have ever seen, I think a substantial compensation should be awarded, so that during the probable limited time he has to suffer on, it may be in some degree of comfort and independence.

I would allow the claimant \$15,000 with interest at the rate of 5 per cent per annum from the 10th day of January, 1920, the date of the ratification of the Treaty of Versailles, to date of settlement.

This claim falls within the First Annex to Section (1), Part VIII, of the Treaty of Versailles, category (4), and I find \$15,000 is fair compensation to the claimant with interest as indicated.

Now that, I feel, was a very fair decision.

*By Mr. Hamilton:*

Q. Who is referred to by "I" in that statement?—A. James Friel, Commissioner. That is dated May 18, 1926.

Q. When you say there is no medical history generally of prisoners of war, there is the medical history and the attestation paper that they were apparently fit when they entered the service?—A. When they entered the service it was taken for granted that they were fit.

*By the Chairman:*

Q. Were there no medical records kept by the Germans in respect of prisoners of war?—A. No, sir, not so far as I know; there were absolutely no medical records kept; unless a prisoner of war had at some time been the victim of an industrial accident, then he might have gone into a private hospital where records would possibly be on file.

Q. But if they were hospitalized by the Germans, would there not be hospital records of prisoners of war?—A. Yes, if you were hospitalized, I would say there would be. The hospitals were more or less nondescript. For instance, I was in Poland, and the hospital was built in an old theatre where the seats had been torn out. There were no regulations, no method, no system; it was more for German troops coming down from the Russian front, something in the form of a convalescing place; and as far as I know no records were kept.

*By Mr. Hamilton:*

Q. Does the man whose case you cited draw a pension?—A. That is the point that Commissioner Friel is unable to understand—the attitude of the Pension Board. He states that the man is 100 per cent incapacitated and only draws a trifling pension. I understand that that is what brought up the question of medical histories. We have no medical histories, and pension regulations state that the judges awarding rates for pensions must rely on continuity. We have no record of continuity among prisoners of war.

Q. Can you state whether the man whose case you cited, if living, draws a pension?—A. Yes, he draws, I would say, a ten or fifteen per cent pension.

Q. But it is only a small pension?—A. Yes. And in the event of that man going to, say, Christie Street Hospital in Toronto with a disability that would have arisen through maltreatment, he would not be able to be given treatment for that particular complaint because there is nothing on his history showing that that was caused during war service.

*By the Chairman:*

Q. Is that correct?—A. I am speaking of my own personal experience, because I suffer from pyelitis—and the reason I bring this up is because of the question asked and I am not trying to grind an individual axe—and at the time I was permitted out of the hospital I explained to them to put on my medical history documents that I was in a protected job and did not require a pension and did not wish to make application for pension. I was told that, in the event of the pyelitis getting worse and I should die, my wife would possibly have to go on relief. The doctor suggested that I state that this pyelitis was caused through war service, but the pension board immediately advised me that although I did have pyelitis and some other disease, the name of which I am unable to pronounce, they were not caused through war service.

Now that is a situation that arises frequently among prisoners of war, and it has worked terrible hardships. All we can do is prove our facts by the mortality rate among prisoners of war. When we say that prisoners of war, as a general class, were all maltreated in Germany, we prove our statement by the records from the war office. The records of the war office state that approximately five thousand Canadian prisoners were captured. There were repatriated, according to war office records, thirty-five hundred. Now that is a little better than one out of three who died in Germany.

A remark has been made that prisoners of war were fortunate in not being in the front line. I should like to say that prisoners of war were not fortunate in that respect. In the first place, they were 100 per cent front line men and the prisoners of war were captured in the heat of battle. 90 per cent of those men, when they were captured, were wounded, and, of course, the general attitude was that if a man was too badly wounded to walk, why, he disappeared, he was not a prisoner of war any longer. Naturally, the men kept on their feet as long as they could. In my own case, I was captured at Sanctuary Woods. We were crowded into freight cars. I suppose it was a case of necessity. I would not consider that maltreatment, but all our wounded men were crowded in those freight cars and we were run into Germany. It took us three days to get into the prison camp, and all we got was water about three times during those three days. We were not permitted to go out of those box cars, and the cars just had a little place in the far end of the roof to provide air. They had seats nailed across, and one man's knees stuck into the knees of the man in front of him, and you can imagine the condition of those wounded men in being wedged in like that, and with no food. Their wounds were sore and bleeding, and they had no air. I still say that was not maltreatment. When we speak of maltreatment, we mean something that is actually needlessly brutal.

[Mr. H. S. Stone.]

We bear out maltreatment by the report of Dr. Cathcart who was a government doctor, a psychiatrist. This is an extract from "Maltreatment of Prisoners of War"; by Eric McDougall. In this report Dr. J. P. S. Cathcart states:—

With the knowledge gained from personal examination of two-fifths of the total number of applicants it has been possible, after careful review of each individual file, to give a reasonably accurate opinion in the remaining three hundred cases. Not only this, but I have been able from a medical point of view to draw certain definite conclusions regarding the after-effects of imprisonment in the whole group of ex-prisoners of war.

In arriving at these conclusions due allowance has been made for the fact that thirteen to sixteen years have elapsed since the termination of imprisonment. It would be expected that after such a lengthy period the ordinary incidence of accidents and diseases in men now reaching the average age of forty would bring forth its own toll of disabilities, but comparison has been made by using as a standard the average health of ex-service men, with which I am in contact daily in departmental work.

That is, he shows the prisoner of war disability in contra-distinction to a similar returned man, who was presumably a front-line service man.

*By the Chairman:*

Q. You are reading now an extract from a report and opinion of Commissioner E. M. McDougall, on the maltreatment of prisoners of war, dated January, 1932, and at pages 11 to 16?—A. This particular part is Dr. Cathcart's report on the condition of prisoners of war. It has several headings; such as mental conditions, chronic phthisis, bronchitis, reduced resistance to infection, nervous complaints and neuphritis, and sterility. And, that is a curious phenomena about sterility. I would not say it was caused by maltreatment, it was more a case of malnutrition, but sterility is very prevalent among former prisoners of war.

Speaking of nervous complaints, I will not take your time by reading this part of the Cathcart report which says that there is a curious phenomena regarding the nervous condition of prisoners of war as compared with the nervous condition of other front line returned men, and he lays it to the effect of barbed-wire-ism; and to the fact that the German government, possibly for the reason of maintaining the morale of its own people. Our people were a proud gang of prisoners. Their morale was wonderful, and if we had any cause of complaint amongst ourselves the Germans never knew about it. If the Germans asked any of us as to how long the war was going to last, it was always three years—three years, we can't lick you people in less than that and you have got to be licked badly. Now, the Germans retaliated. They knew what we were doing. We were doing our best to attack the morale of the German people. The German newspapers were putting on big headlines "England Hungern," England is starving. We would keep our last tin of bully beef which had come in a parcel and we knew we would not get another one for a week, we would keep it for the sole purpose of showing the Germans the kind of beef we used. We would put on our best wool clothes to show the Germans, and would tell them that their submarine warfare was a failure. The German government knew what we were doing, and the German government made direct attacks at the morale of the English prisoners of war and tried to break their will-power. You were living constantly under a threat. You were sent out not under soldiers. It would be hard for any of you gentlemen to imagine, it is hard for me to imagine, any soldier having the courage to face what the prisoners had to face. It seemed that no man with the courage to engage in ordinary warfare could be so brutal. But, gentlemen, these were



not soldiers. These were just plain, ordinary, lead-swingers, home guard men—I would not say they were home guards. They were lead-swingers. They were men who were mentally and morally deficient. Men that they could not trust in their front line. The only way I can explain it is that there was the threat to these men that they would be sent to the front line if they showed any favours. From that you can know what class of men was over the prisoners of war. You know, with us, when we wanted to keep the men in order, we threatened them that they would not go to France. I mean, that they were the class of men that you have to threaten with sending to the front line. Tha was the class of men in charge of prisoners of war in prison camps. No paid officers, no men who knew how to handle men at all; no one who knew how to feed and ration any number of men. These prisoners were not in such a terrible condition; that is, on the average their condition was reasonable and it depended on the quarters and the food. The food, of course, was terrible. The German government had no food, and naturally what little they had they weren't going to deprive their own people of. They gave us barely enough food to maintain us, and starved us. The food was deficient of those elements which were necessary to continue to live. You know, Dr. Robertson, who was down in that mine, when communication was established with him, asked for certain grades of food; and I noticed that the food he asked for was the food that we never got; that is, the food that contained the necessary elements for building up a man's nerves and so forth. We never got that food. The average prisoner of war was not in these prison camps. The average prisoner of war was like the average horse here. There was no other comparison. That is, he was rented out to private contractors. A private contractor would send in a request for 50 men whom he wanted to use in his stone quarry. There were quite a few stone quarries. And the owner of a quarry would ask to be supplied with able bodied prisoners of war; and he got them for the payment of 6 cents a day, provided he gave the men medical treatment, sanitary quarters and food. The natural result was that the strength of these men declined, but still they had to do the same class of work. While they were not able to do the same volume of work, the contractor invariably would tell the sentries, I have got to have a certain volume of work out of these men. You are making friends of these men and I must have you push these men. If you do not push these men I am going to report you to the prison camp; or he might have other means to use to see that the sentry was more interested in pushing the men. Now, the health and strength of these men declined, but they had to keep up the volume of work. What was the natural consequence? The sentries began to drive the men, and often they were sick. We will say they might have tonsilitis, or bronchitis, or we will say appendicitis. Can you imagine a man with appendicitis going to a man who could not even write his own name, and who in our opinion was just semi-human, and telling that man that he was sick. He had nothing to show that he was sick, but he had a terrible pain in his stomach. Naturally, the sentry would say, I don't care you are going to work, I never heard of appendicitis, how do I know that you have appendicitis. The contractor wasn't interested in paying doctors bills. He would tell you right point blank to your face: I can always get more prisoners of war, you are here to work and you are going to work. When a man could not carry on work any more he was just sent back and exchanged for a man who could work.

Now, we will take a man who was captured at St. Julien. Those men were gas cases. If you look at the men in that engagement who were not captured, they were taken back on our side and they were given every medical treatment; and those who were fortunate enough to survive were brought back to Canada and given protected jobs in industries and they were given a pension, because we had a full and complete picture of the condition of these men. Now, the men who were captured in St. Julien are the men, I maintain, who were

[Mr. H. S. Stone.]

responsible for giving Canada the reputation that Canada received in that battle; the rearguard who held a hopeless position in the storm. We read about these men in the newspapers, what wonderful heroes they were. What happened to them? They were taken back into the interior of Germany and sold to contractors, and you could imagine their condition. They had no hospitalization for these men. They were sold to contractors and they were brutally treated. They lacked medical attention. The result of that was that when the prisoners of war came out of Germany—how many were there? There were 5,000 who went into Germany, and 3,500 came out. Now, God knows what happened to the other 1,500. We are making no exaggerated statement when we say that the mortality rate among prisoners of war is terrible; because—Dr. Cathcart will bear out this statement right in this document to which I have referred, in which he reports on some investigations which he made in the west. And many of the men who are in protected jobs—now, by protected jobs I mean men who did not have to get out and earn their daily bread by the sweat of their brow in order to maintain their wives and their children. To show you what I mean I am afraid I will have again to refer to my own particular case, although I can assure you I have no personal axe to grind, but I have to find some means of trying to make it clear. I cannot begin to work to-day. If I try to really work for as long as one hour I have to lay off it, and I would have to go back into hospital. When we were coming down here I tried to drive the car for eight hours and I found I couldn't do it. I had to quit and get my wife to take the wheel.

*By Mr. Streight:*

Q. How long were you a prisoner of war?—A. Three years.

*By Mr. Reid:*

Q. All the time you were a prisoner of war did you have a sort of unknown fear, a dread?—A. Yes, an unknown fear, a gripping fear. You see, the kind of thing we were up against was, we will say you did not know when a sentry was going to get drunk or go crazy and start shooting the place up.

*By Mr. Hamilton:*

Q. You said that 3,500 came back. How many of those are now living?—A. We have reason to believe that between 1,000 and 1,500 still survive.

Q. Do you know what pensions they are paid to-day; 40 per cent or anything of that kind?—A. We have no data as to that; except that as a group pensions have invariably been refused. That could be verified by the pension documents of prisoners of war.

*By Mr. Reid:*

Q. May I take it that your representation is that reparations payments should be held with a view to pension; or do you seek reparations?—A. I would say that reparations is our prime object.

*By the Chairman:*

Q. Your brief, I think, makes your position clear?—A. The question of pensions is somewhat the issue. You see, we have been deprived not only of what we figure just consideration—all we ask for is consideration similar to that awarded to civilian cases. Now, I read about these awards. I showed you where 8 awards under the Friel and McDougall Commissions totalled \$35,000. Under the last commission the total of 132 awards, without interest, amounts to \$93,000.

Q. Have you got the particulars on that?—A. I can get them for you. Each commission must treat on a similar basis or else it is not fair. Why have a commission at all unless they are going to treat one individual and judge him

on the same standard as a second individual. This commission gave \$8,000,000 to civilians. We are not complaining about that, but we are complaining that we did not receive adequate consideration. With respect to civilian claims the percentage of awards was around 90 while with respect to prisoners of war it was only 2 per cent. Of \$8,000,000, prisoners of war were awarded \$160,000. The commission were appointed on a fair, just and equitable basis; it does not appear to have been so. That is why we are asking for a new commission. We are asking for a new commission, or a grant, because a commission is expensive. We are just laying the whole facts before you gentlemen.

*By Mr. Reid:*

Q. Might I ask if you have an organization?—A. Yes.

*By Mr. Hamilton:*

Q. Does it extend throughout Canada?—A. We are in contact with a similar organization in British Columbia. We have had difficulty in getting a charter. We have applied for a charter and sent in our fee, but the charter is in abeyance; that is, we expect to receive it, and that is the reason we have not organized further. We have had difficulty in getting a charter. We applied for a charter and sent our fee, and the charter is in abeyance. That is, we expect to receive it.

*By Mr. Reid:*

Q. Is it a provincial charter?—A. Dominion charter. We asked for a Dominion charter, because we feel that we are in a better position to represent prisoners of war as regards pension or settlement. Take a prisoner of war with the mental attitude he has and try to treat him as the average returned soldier and you are going to work havoc with the prisoners of war.

*By Mr. Emmerson:*

Q. Are you asking for another commission to be appointed to examine the claims of prisoners of war?—A. The last commission cost, I believe, \$149,000—no, the cost was \$150,000 and the awards were \$149,000. Now, it would not be fair to expect all that expense to go, and we figure that with the whole total picture assembled and the facts we have proved of maltreatment—not individually—we could individually prove maltreatment—but we will prove maltreatment by the fact that 1,500 out of 5,000 did not come out of Germany. That is sufficient to prove maltreatment in my opinion, and the fact that as compared with the average returned soldier our mortality rate is probably five times as great and that the returned soldiers are now going on with an average age of 45 years and ordinarily they come under this burnt-out provision anyway in a few more years.

We have now legislation for burnt-out veterans. Consider the case of the prisoner of war. When those prisoners of war came back in 1919 you had burnt-out veterans, and as a result of them not having received proper consideration at that time half of the men who came back practically are now in their graves. The reason why those men are in their graves is that there was no one to look after them. Possibly we fell down on our jobs. We did not understand the situation until the reparation question opened with the McDougall commission with respect to prisoners of war and we formed an association. Once we formed an association the facts began to present themselves to us that the majority of prisoners of war were helpless and that if you take a prisoner of war and scratch him just the least bit you have a man who is pretty close to being a mental case.

[Mr. H. S. Stone.]



*By Mr. Hamilton:*

Q. Are those figures you gave to the effect that the mortality of prisoners of war is five times that of the returned men accurate; can they be verified? Is there any official information of that nature?—A. I am sorry. I should not have made that remark without verifying it. It is what we have figured from our own mortality rate.

Q. I think it is rather important. I know quite a number of those fellows in Sault Ste. Marie, and I do not think that is accurate at all. They were over there from St. Julien on, and I do not think that any such proportion as that, as against the average overseas man, obtains?—A. I could not say. The number of prisoners of war was roughly 1 per cent of the troops that went overseas.

The ACTING CHAIRMAN: 5,000 prisoners.

WITNESS: Yes.

Mr. MACDONALD: Do you say 1 per cent of the prisoners that went overseas?

WITNESS: Yes, roughly.

Mr. EMMERSON: Do you mean the number that went to France?

WITNESS: I understand that the Canadian Expeditionary Force in all approximated probably 500,000.

The ACTING CHAIRMAN: Not that many went to France?

Mr. EMMERSON: 480,000 went to France.

Mr. MALCOLM McLEAN: The witness is close enough.

WITNESS: That would be approximately 1 per cent of the troops that went overseas were prisoners of war.

*By Mr. Green:*

Q. Would it help your position if maltreatment were made a ground for pension just as gunshot wound is?—A. It would most certainly help the situation as regards prisoners of war. I have the suggestion of Dr. Cathcart which is very fair, and I do not see why it should not have been adopted long ago. Dr. Cathcart has made this report on the condition of 500 prisoners of war. Now, prisoners of war, as I say, have no medical history to prove continuity and bear out any of their statements; we can only prove by the mortality rate in Germany.

Q. Of course, in many cases you can get proof of maltreatment in the evidence of their fellow prisoners?—A. Take myself, for instance. For punishment purposes—trying to escape—I was sent up into north Germany. There were three Canadians in the prison camp. It was a punishment camp for the Guards for the work they did in the first battle of Ypres. They were professional soldiers, and the German government said that as professional soldiers they should have surrendered at least two hours before they were captured; that they knew the position was hopeless, and that in fighting on they murdered German troops. They were sent to Schneidemühl prison camp. There is no use of my going into the atrocities there, but I want you to imagine a man who did nothing at all placed in a camp which crowded with Russians and Frenchmen and there was no room for the men to walk up and down the roadway. I believe the German camp commandant wanted to put the fear of God into the British; he wanted to get revenge on the British for some of the actions the government was taking. He put sentries inside that roadway. Now, there were 40,000 Russians and approximately 10,000 Frenchmen and 300 British inside at that time. Those British were Guardsmen—old regulars. Orders were explained to every man in that prison camp: "You must not go within five feet of those sentry boxes." They were protected by wire and they were not inside the roadway of the prison camp. The Germans watched their opportunity and caught one Guardsman—I am trying to think of his name, but I have forgotten it—but they caught him and put him in the cells and tried him for attempting

to assault a German sentry. The man never tried to do anything of the sort. The man came within five feet of the sentry box and the sentry rushed at him with his bayonet and the man tried to get through the crowd, the sentry followed him, the man stumbled and the sentry raised his rifle to strike him and the man put his hand up to protect himself; that was the assault on a German sentry. They brought this man out stripped to the waist, bound his hands and tied him over a barrel. They brought out the Russians and stood them on one side and they brought out the French and stood them on the second side and they brought out the English and put them on the third side and then they brought out the Germans with their rifles trained and put them on the fourth side of the square in a kneeling position with an officer standing before them with sword raised. This Guardsman was bent over the barrel and tied. He was stripped to the waist. Now, we used to carry soup in big washtubs, and the washtubs had staffs going up through two holes. These poles were about 7 feet long and about 2½ inches in diameter. Now, one man with a pole stood on each side of this Guardsman who was tied over the barrel and they beat that man until they broke every bone in his body. You can imagine how those Englishmen felt having to watch that. They were surging forward, but some of the cooler heads would say, "be careful, don't do it." And this officer was standing watching with his sword raised and the Germans with their rifles were standing ready. Now, when people have to go through treatment like that, you can understand the situation better.

*By Mr. Macdonald:*

Q. Did you see this yourself?—A. I did not see this, but it can be verified by the 300 Guards prisoners in Schneidemuhl in 1915.

Q. Who told you about that?—A. The guards prisoners.

Q. Are any of them here in Canada?—A. I could write over to the Guards headquarters in London and get you proof of that statement. Bullen was the man's name.

Q. Did you hear of that before you came back to Canada?—A. Yes, I heard of it in that prison camp. There is no doubt about it; it was authentic. It should be in Younger's report because this was a pure out and out case of murder, and the reason they did it was to try to drive the British to rescue him.

*By Mr. Green:*

Q. Would it be possible to prove maltreatment in most of the cases where there was maltreatment?—A. Yes. Dr. Cathcart, after going through it—or Mr. McDougall rather—says that if they were to interpret the instructions literally every prisoner of war would be able to prove maltreatment; but for some reason he felt he was not permitted to interpret the instructions literally.

*By Mr. Hamilton:*

Q. Why don't cases like that come under a proper and fair application of section 73—that is the benefit of the doubt section—as far as pensions are concerned. There is no doubt, if the facts can be established, that whatever these men are suffering from is the result of war service. Now, under the broad wording of section 73 "....the body adjudicating on the claim shall be entitled to draw and shall draw from all the circumstances of the case...." Surely those are circumstances affecting the pensioner's case—they "shall draw from all the circumstances of the case, the evidence adduced and medical opinions, all reasonable inferences in favour of the applicant." Now, if they are willing to do that and can do that, surely there is room within that provision in as far as pensions are concerned, at any rate, to take care of those cases.

The ACTING CHAIRMAN: It is a matter of interpretation again.

[Mr. H. S. Stone.]

*By Mr. Streight:*

Q. I think the witness has left something out. I think, Mr. Stone, you are trying to show us that you are after this reparation money?—A. Yes, that is the point. I am sorry that I have strayed that far, but the reason was that I would like—

Q. You want to tell us that Germany paid \$26,000,000 for reparations to civilians and prisoners of war for maltreatment?—A. Germany paid \$26,000,000 to Canadian Nationals—that embraces everybody—for illegal acts.

Q. And also you were trying to tell me the other day that Canada forgave Germany the payment of any other damage; is that right? That money is earmarked for maltreatment of civilians and prisoners of war.

The ACTING CHAIRMAN: It is earmarked for damage caused by acts of illegal warfare of which there are four categories.

*By Mr. Streight:*

Q. They have all been paid except prisoners of war?—A. Yes.

Q. How much money is that?—A. There is an amount of \$18,000,000 odd with 5 per cent interest.

*By Mr. Green:*

Q. Is that correct?

Mr. McLEAN: That is hardly a fair question to ask the witness.

WITNESS: We have evidence to bear out the statement that that is a fact. Mr. Cahan's letter stated that they had received \$26,000,000. We have proof here of the actual payments by the Pugsley Commission of \$7,267,000. There were some awards made after that which totalled approximately \$8,000,000. Now, \$8,000,000 from \$26,000,000 leaves \$18,000,000.

Mr. GREEN: This should not be left to speculation. We should be able to find out definitely from the proper department.

Mr. McLEAN: Yes. Mr. Chairman, I do not doubt the accuracy of the witness's statement, but I do not think it is fair to expect the witness to state anything about the financial situation.

The CHAIRMAN: The facts are easily ascertainable.

Q. In your brief you state that the first two commissions made adequate awards in all cases that came before them?—A. Yes.

Q. But you quarrel with the terms of the advertisement put out by those two commissions?—A. Exactly.

*By Mr. McLean:*

Q. With the terms of the advertisement?—A. Yes, the terms of the advertisement notifying Canadians that they were entitled to make claim for destruction of life and property.

*By the Chairman:*

Q. In other words, the advertisement did not call attention to the fact that damage might be claimed by reason of maltreatment of prisoners of war?—A. No, the advertisement did not do that.

*By Mr. Mulock:*

Q. It did not call attention to class 4?

The CHAIRMAN: No.

Q. Then you go further and say that the ex-prisoners of war request permission to submit claims, and a third commission was appointed which you say was unsatisfactory?—A. Absolutely.



Q. And that the few awards made were very small in comparison with similar awards made by the previous commissions?—A. Yes.

Q. Have you got the figures of the number of claims that were presented to the third commission and the disposition of these claims?—A. I have the number of claims.

Q. Will that be contained in Mr. McDougall's report?—A. It will be contained in that. Here is Mr. McDougall's extract. It would not be contained in the extract, and we did not get an opportunity to obtain a copy of the McDougall report. Here it is.

Q. How many claims were heard by the McDougall Commission?—A. The total number of cases heard was 340. There were 132 claims allowed, and 208 claims disallowed. The total amount awarded was \$93,500. You will understand, gentlemen, that here were 132 cases allowed, and the total amount awarded for the 132 cases was \$93,500.

Q. What is the average?—A. The average is about \$700.

The CHAIRMAN: It is \$708.37.

*By Mr. McLean:*

Q. It is an average of about \$4,000 under the five commissions?—A. Yes, \$700 against \$4,000. The total award was \$35,000 for eight prisoners of war, whereas here 132 claimants got \$93,500. I think that is absolute proof that we are within reason when we say the last commission did not operate on the same fair and equitable basis as did the two previous commissions. There is no reason why that commission should not carry out the terms of a contract, and we say the terms of the contract were not carried out. We had cases of men whose evidence was such that some people were of the opinion that the awards were drawn out of a hat.

*By Mr. Mulock:*

Q. When was the last commission?—A. In 1931 and 1932.

*By Mr. Hamilton:*

Q. And it lasted for a definite time?—A. It lasted for approximately one year. Cases were heard all over Canada.

*By Mr. Green:*

Q. Are you complaining that ample opportunity was not given to have the cases presented before that last commission?—A. We are complaining that there was not ample opportunity, and that the awards were not made on a similar basis.

Q. Those are two separate points. First of all, are you complaining that there was not ample opportunity given to all prisoners of war to present their cases before the McDougall Commission?—A. Yes, insofar as the commission apparently did not advertise its presence in a locality.

Q. Are you sure of that, because I know that in Vancouver men were brought from Los Angeles and San Francisco?—A. Yes. I may be mistaken, but I think you will find they were brought as a result of the efforts of the Prisoners of War Association and comrades of the prisoners of war getting in touch with these men.

*By the Chairman:*

Q. Might I suggest that you place before the committee the requests which you make in your brief and state the grounds for making those requests, then perhaps you could deal with each of those grounds?—A. Yes.

[Mr. H. S. Stone.]

Q. Then the committee will have the whole of your requests before them and will have a statement of the grounds upon which you base your requests?—  
A. Yes.

Mr. McLEAN: Mr. Chairman, how long does the witness expect to take to present his case satisfactorily?

WITNESS: I would say in about ten more minutes, gentlemen. I have drawn what I consider is more or less a complete picture. I have not gone into individual cases; I am leaving those to your own imagination. They should not require the necessity of proof.

Mr. McLEAN: The point I would make is that the witness has now been engaged for perhaps an hour or an hour and a half dealing with many things that he perhaps is not familiar with. There have been many questions raised, and unless he has been sitting here for the past two or three days, he would not be in a position to contemplate what would be required of him. As it is now half past five, I think if the committee were to adjourn until to-morrow morning it would give the witness an opportunity, in the meantime, to go over the points that have been asked him and put him in a better position to present the balance of his brief and make his final statement. I do not think that is unreasonable.

The CHAIRMAN: That would be all right. I think perhaps the committee might like to have a statement of the requests which the ex-prisoners of war make and their grounds for making them.

Mr. McLEAN: Is that in the brief?

The CHAIRMAN: Yes, but he might comment on each ground briefly, if he so desires.

Mr. GREEN: Could we have a copy of the brief?

Mr. McLEAN: It could be taken as read.

The CHAIRMAN: We could print the brief.

Mr. GREEN: You will not have it by to-morrow morning.

The CHAIRMAN: It is very short.

WITNESS: It will not take five minutes to read it, gentlemen.

Mr. REID: I suggest you read the balance of it.

WITNESS: The brief continues:—

We therefore request further consideration of military ex-prisoners of war claims on the following grounds:—

(1) That those who have not yet had the opportunity of presenting a claim be given a hearing.

I cannot vouch for the figure, but approximately 25 per cent have not been given an opportunity of a hearing. All civilian cases were given an opportunity; our men have not.

(2) That those who have already presented a claim and who wish to appeal the decision be allowed to do so.

We are in a position to show where an award was made to a man, and that man was subsequently allowed to appeal and was awarded \$15,000.

*By Mr. MacDonald:*

Q. What would he get \$15,000 for? What was the nature of his claim?

*By the Chairman:*

Q. Is that the case you read to us?—A. No, this is a civilian case.

Q. That a civilian was allowed to appeal an award?—A. A civilian was allowed to appeal an award.

Q. And you ask that the same right be given to prisoners of war?—A. Absolutely. The brief goes on:—

(3) That those who have already presented claims and wish to present further evidence be granted this privilege.

A number of our men did not understand how to prepare their cases or how they stood technically before the commission, what rights they had or what rights had been violated, and now that they have a better understanding of it they feel that they should be granted the same privilege as the gentleman who was permitted to make an appeal.

(4) That it is the studied opinion of the military ex-prisoners of war that awards granted were far short of medical expenses insured to re-establish oneself to civilian conditions.

We feel that that does not need special mention because it is so apparent. Awards were made on the basis of \$500. In fact, it has appeared just as a stop-gap, something by which they could say, "Well, they are satisfied," and so forth.

(5) That in all claims for reparations consideration be given the fact that each prisoner of war whilst interred maintained himself in food and clothing. No consideration has been given to this in awards granted or not granted.

The reason that was put in is that in the interpretation of the Treaty of Versailles there is a statement that the government is entitled to make claim for maintenance. If prisoners of war were a charge on the government for maintenance, it is news to me. Prisoners of war all received advice from the Red Cross that they were required to sign over ten shillings of their pay and in return to get parcels, and their parents were approached as well as neighbours and charitable organizations for funds to be sent through the Red Cross to maintain prisoners of war in clothing and food. Now, that is all we got.

(6) That malnutrition also be considered as maltreatment in basing necessary claims.

When I say malnutrition, gentlemen, they were sending back sick Russians to the prison camp in 1916; that is, they were sending men back who were incurable, who had tuberculosis and other contagious diseases. These Russians, naturally, were in a very bad condition and the German government did not wish them to be sent to Switzerland in such a condition, so these men were confined in a separate compartment of the prison camp and given double rations—double rations of mangle soup. Now, mangle soup is not very nourishing, and we were hungry. We used to rush over after these Russians had received their double ration, and while there were fifty or sixty of us, we would stand alongside the wire which separated us, raise the wire, and these Russians who were very sick, would pour what was left of their soup into the basin of the lucky man. That shows you how hungry the men were.

*By Mr. Reid:*

Q. I have been looking at the report of the Department of Pensions and National Health, and I have been wondering if you have any figures as to the number who have applied for pension and been refused?—A. I have no details in connection with that.

*By the Chairman:*

Q. Is there any definition anywhere as to what constitutes maltreatment?—A. Maltreatment is a legal damage which has, in my own words, persisted through the years.

Q. Is there any definition in any treaty or report of the various commissions as to what is meant by maltreatment?—A. Maltreatment does not mean a man's condition caused through acts of war-fare or legal confinement, or a man who

[Mr. H. S. Stone.]



attempted to escape, imprisoned and no extraordinary punishment handed out to that man. That does not constitute maltreatment. We do not consider that the ordinary method of confining a man constitutes maltreatment if you are fed mangle soup every four days and you get bread and water. When I was there you got two slices of brown bread at six o'clock at night, and you got two more slices of brown bread at six o'clock the next night. That persisted for three days, and at the end of the fourth day you got mangle soup. Practically all of us at various times received punishment for trying to escape or for other things. But we do not consider that a man who is confined for four days, with food, has been maltreated. According to Mr. McDougall, it is not maltreatment. It is not maltreatment because it is the usual German method of punishing military prisoners. Anything that is maltreatment is something that is done contrary to the usual custom as accepted by the Haig Treaty. Maltreatment, in the case of prisoners of war, is interpreted to mean an injury that persists throughout their lives.

We have cases here—I will not go into them—where women on the "Hesperian," or other boats that were sunk, were in the boats for three hours. Some of them might have got their feet wet, yet they were allowed seven, eight, ten or twelve thousand dollars. Those cases number probably thirty or forty, and they did not have to bring proof that their condition was caused through being in an open boat on the sea for three hours. Prisoners of war have to bear the onus of proof that such a thing actually happened and that it actually caused their present condition. But we are not complaining of that; we are willing to accept that. We are willing to accept that as the law, and all we are asking is that we be given the same consideration as civilians. We are not even asking that the Government give us a commission, because we know commissions cost a great deal of money which could possibly be used in aiding the returned men.

*By Mr. Emmerson:*

Q. How else would you suggest it?—A. A method of compensation, a grant.

*By Mr. Green:*

Q. How would you divide the grant?—A. That is the question; would you give a man who had been three and a half years a prisoner of war a larger grant than a man who had been only a prisoner three and a half months? Unfortunately, you cannot do that. We have here a copy of what they call, "Declaration of Reprisals to British Prisoners of War." Those were the men who were captured towards the end of the war, and they were only prisoners for three and a half months but their condition was terrible.

Mr. HAMILTON: There must be a pension claim as well. If a man is sufficiently affected by overseas service to get reparation of that type, I should think he would have some kind of disability that would give him a claim for pension.

The CHAIRMAN: Your view is that if he suffered damage caused by maltreatment when he was a prisoner of war he would be an applicant for pension on the ground—

Mr. HAMILTON: Why not let the pension commission establish that? It has got to be established by some method. Why not have the pension commission allocate a certain proportion of the disability to maltreatment, if there is a basis for claim on these reparation moneys?

WITNESS: The difficulty in that would be that you would have doctors who had not been prisoners of war and would not understand the actual effects. Take the departmental pension doctors—I am not criticizing these men, they are

wonderful men—but they have been dealing with the average prisoner of war, and that is our difficulty. We are only a small group, but we are not to be classified with the average prisoner of war because the conditions were different. Take malnutrition, it worked terrible havoc and is working terrible havoc at the present time. I suppose any medical authority will tell you that continued malnutrition will weaken a man's resistance, and once a man's resistance is lowered all kinds of diseases may creep in. How could you prove the proportion of a disability caused by war service? If you have a doctor who understands the effect of malnutrition, you will get a fair deal before that doctor. The only way that could be done would be to have ex-prisoner of war medical doctors; and, is that possible?

*By the Chairman:*

Q. Have you had any opportunity to consider the suggestion that the Pension Commission might review the claims of former prisoners of war? I do not want you to express an opinion unless you have had an opportunity of thinking about it.—A. We have not had an opportunity to connect up pensions with reparations, and we were instructed to talk along the lines that we were more acquainted with; that reparations and pensions are two separate entities, and just stress the fact that all we wished was similar treatment to that accorded to civilian cases as regards reparations.

Q. And you feel that the first two commissions did not take hold of the question because it was not adequately brought to the attention of former prisoners of war who might have claims?—A. No.

Q. And that the third commission did not deal adequately with the matter?—A. With the awards, no.

Q. And that there are still a number of prisoners of war who have not yet had an opportunity of presenting their claims?—A. Yes. That is it, exactly.

Q. And you want the claims that were heard and adjudicated by the third commission reviewed?—A. And, that an opportunity be given to present further evidence. And we wish to leave the question of appointing a commission with the government. We shall be glad to do anything we possibly can to assist the work of such a commission so that the government may be able definitely to settle this question. In the reparations fund at the present time is a sum amounting to several millions of dollars.

Mr. HAMILTON: Is this within the scope of our reference?

The CHAIRMAN: It is a returned soldier's problem. While the terms of our reference may be rather narrow the spirit of our reference is large.

Mr. HAMILTON: This is a very important matter.

The CHAIRMAN: We were assured by the minister that any matter coming before the committee that was a returned soldier's problem might be heard by the committee.

Mr. MULOCK: And, if it is not covered by the terms of our reference we can go back to the House and get further authority.

The CHAIRMAN: Yes. We could have our reference enlarged.

*By Mr. Green:*

Q. There was one other point raised here; that was, that if maltreatment was shown before the commissioner a man became a pensioner; but my understanding is that many of these men who did get awards for maltreatment have been absolutely unable to get any pension. Which is correct?—A. That is borne out by the statement of Mr. Friel where that man was awarded \$15,000, and Mr. Friel's commission doctor stated that the man was totally incapacitated

[Mr. H. S. Stone.]

100 per cent; and Mr. Friel goes to the extent of drawing it to the attention of the pension authorities that he did not understand their attitude, that this man was only drawing a very small pension.

Q. The pension authorities will not grant a pension for maltreatment now?—A. No.

Q. Is that correct?—A. That is correct.

Mr. MULOCK: There is no longer a quorum.

The CHAIRMAN: Before we adjourn: There is the question of our next meeting. I understand there is a large caucus in the morning, and the Agricultural Implements Committee is holding its initial session. Perhaps we might adjourn until to-morrow afternoon in the circumstances.

Mr. HAMILTON: Can you give us any idea as to how many more witnesses there are?

The CHAIRMAN: We have a request from a representative of the Canadian Institute for the Blind to appear before the committee. That will be Captain Baker. We also have a request from Mr. Lyon that he might say something representing the Sir Arthur Pearson Club for Blinded Sailors and Soldiers. In addition to that we have a number of departmental officials.

Mr. STREIGHT: Could these witnesses stay over until to-morrow?

WITNESS: We have presented our brief and I think we might very well leave it at that, with the understanding that should any questions arise they might be forwarded to us. I think otherwise we are quite content to rely on your good judgment.

The CHAIRMAN: You are satisfied to leave your submission as you have made it to-day?

WITNESS: Yes.

(The brief submitted by the Ex-Prisoners of War Association in Canada appears as Appendix A to the proceedings of this day.)

The CHAIRMAN: We will adjourn until to-morrow afternoon at 4 o'clock.

The committee adjourned at 6 p.m. to meet again on Thursday, May 7, 1936, at 4 o'clock p.m.



## APPENDIX "A"

Hon. G. C. POWER, Chairman, and  
Members of Special Committee on Pensions.

*Reparations for Military Ex-Prisoners of War*

GENTLEMEN,—Canada received certain moneys for the purpose of compensating Canadian citizens for damage caused by acts of illegal warfare. The clauses relating to reparations in the Treaty of Versaille, Article 231 and 232 with Annex One of Article 232, contain the following provisions dealing with Prisoners of War.

Compensation may be claimed from Germany under Article 232 in respect of the total damage under the following categories:—

(1)

(2)

(3)

(4) Damage caused by any kind of maltreatment of prisoners of war.

Germany made payments which up to March 28th, 1932, totalled \$26,672,246, of which some \$8,000,000 to date has been paid out in claims. Less than two per cent of the \$8,000,000 has been paid to military Ex-Prisoners of War.

Three reparations Commissions have conducted hearings,—Friel, Pugsley and McDougall respectively. The first and second dealt chiefly with civilian claims, with only approximately a dozen Military Ex-Prisoners of War claims. The first two commissions made adequate awards in all cases.

The Military Ex-Prisoners of War requested permission to submit claims and a third Commission was appointed. The third, or Mr. McDougall Commission was very unsatisfactory. The few awards made were very small in comparison with similar awards made by previous Commissions.

We therefore request further consideration of Military Ex-Prisoners of War claims on the following grounds:—

(1) That those who have not yet had the opportunity of presenting a claim be given a hearing.

(2) That those who have already presented a claim and who wish to appeal the decision be allowed to do so.

(3) That those who have already presented claims and wish to present further evidence be granted this privilege.

(4) That it is the studied opinion of the Military Ex-Prisoners of War that awards granted were far short of medical expenses insured to re-establish oneself to civilian conditions.

(5) That in all claims for reparations consideration be given the fact that each Prisoner of War whilst interred maintained himself in food and clothing. No consideration has been given to this in awards granted or not granted.

(6) That malnutrition also be considered as maltreatment in basing necessary claims.

EX-PRISONERS OF WAR ASSN. IN CANADA,

HORACE PICKERING,  
President.

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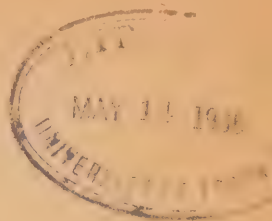
Canada. Pensions and Returned Soldiers  
Problems. Special Committee

(SESSION 1936)

HOUSE OF COMMONS

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SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 15

THURSDAY, MAY 7, 1936

## WITNESSES:

- General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League.
- Captain E. A. Baker, representing the Sir Arthur Pearson Club for Blind Soldiers and Sailors, and the Amputations Association.
- Mr. Lyons, representing the Sir Arthur Pearson Club for Blind Soldiers and Sailors.

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1936





## MINUTES OF PROCEEDINGS

THURSDAY, May 7, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4.00 o'clock, p.m. Mr. McLean (*Melfort*), the Vice-Chairman, presided.

The following members were present:—Messrs. Beaubier, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (*Sir Eugène*), Green, Hartigan, Isnor, MacNeil, McLean (*Melfort*), Mulock, Mutch, Quelch, Reid, Ross, (*Middlesex East*), Streight and Thorson.—17.

General Alex. Ross, Dominion President of the Canadian Legion of the British Empire Service League, was recalled, examined and retired.

Captain E. A. Baker, M.C., Secretary of the Sir Arthur Pearson Club for Blinded Soldiers and Sailors, was recalled, examined and retired.

Mr. Lyons, who was present in behalf of the Sir Arthur Pearson Club for Blinded Soldiers and Sailors, was called. He stated that Captain Baker had covered all the points he had wished to bring to the attention of the Committee, and it would therefore not be necessary for him to make any further statement.

On motion of Mr. Green, seconded by Mr. Brooks, the Committee adjourned at 5.45 p.m. to meet again at 11.00 o'clock a.m. Friday, May 8th.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS,

Room 297,

May 7, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 4 o'clock, P.M. Mr. Malcolm McLean, the deputy chairman, presided.

The DEPUTY CHAIRMAN: Gentlemen, General Ross is going to deal with some matters today. We will call him now.

General ALEX ROSS, recalled.

General Ross: The matters of detail to which I have some reference to make concern section 21 of Bill 26 which becomes section 52 of the act. We are somewhat alarmed at the possible effect of this section, having regard to previous experience. When the general procedure was changed in 1930, the provision of the act was not exactly the same as it is at present but was of very much the same effect, which was that it was designed to give the applicant only one shot at the Pension Commission. I am not quite sure who it was, but my idea is that it was our present chairman, Major Power, and I think he said in language that was quite picturesque and forceful that the idea was "to prevent you fellows sneaking in at the back door and putting things over." In any event, it was done, and the result was that inside of six months the whole machinery was clogged up. What happened was that an application came to the commission. It may have been prepared, or it may not; but under the act as it then was it was an application, and it had to be either acted upon or referred to the chief pensions advocate who, in turn, referred it to the tribunal, and in no time at all the chief pensions advocate's office was absolutely flooded and the tribunals were flooded. We think that the effect of the present section will be very much the same. In other words, an imperfectly prepared application coming to the commission must either be allowed or be referred and being referred must go to the chief pensions advocate who is then charged with the responsibility of carrying on preparation. Then it has to go to a quorum, whereas if the case were properly prepared in the first place it might have been disposed of by the commission.

What actually happened after 1930 was that we had to go back to Parliament and ask for an amendment, which was granted, and which now appears as sections 51 and 52 of the present act. It means that the applicant on his first application is notified that it cannot be granted and that he may either submit new evidence or ask for a reference to the chief pensions advocate or ask for a reference to the quorum. The result is that imperfectly prepared cases have an opportunity of being advanced at a later stage before the commission without actually clogging up the subsequent machinery.

Now, I may say that this amendment was granted at our instance, but actually the chief beneficiary was the chief pensions advocate. I will refer you to his report of 1932 which is found in the report of the Department of Pensions and National Health for the year ending March 31, 1932, where at page 21 he says this amendment was asked for by us, not by him:—



The work of the bureau during the year was marked by an important amendment to the Pension Act which had a far reaching and most beneficial effect throughout the organization of the administrative bodies operating under the act. This measure abolished a provision in the 1930 legislation under which all applications not granted by the Board of Pension Commissioners were automatically referred to the chief pensions advocate and chief commission counsel. The amendment also provided that the Board of Pension Commissioners when unable to grant an application would inform the applicant of the grounds for its decision, leaving it open to the applicant to submit additional evidence direct to the commission or to request that his application be referred for submission to the Pension Tribunal.

The result of this legislation was a prompt and almost complete cessation of references from the commission to the chief pensions advocate and chief commission counsel. These references prior to the coming into force of the amending act on August 3, 1931, were being made at an average rate of 100 per day. The marked reduction in the number of references is illustrated by the fact that the total received from the date on which the amendment came into force to March 31, 1932, was only 943, while during the corresponding period before the amendment the number of references was 19,599. It was found that there was a disposition on the part of many applicants to accept the decision of the Board of Pension Commissioners on receipt of advice of detailed grounds for the decision.

I suggest to you that the testimony of the department official who is charged with the responsibility of departmental cases should be very effective. In his report for 1934 at page 20 he again bears testimony to the efficacy of that legislation.

Now, the suggestion that we sneak in at the back door and put things over is not correct to start with; and, in any event, if the legislation carries, it is not going to hurt us because, after all, our officers know just as much about the Pension Act as the Pension Commission itself, and they know when a case has merit and is complete. As you know, at the present time it is very difficult for us to acquire all the evidence at once and it may very well be that at a certain stage in the process they may say, "now, I think we have a pretty good case, to avoid delaying the matter, we will take a shot at it." Perhaps we do not succeed. Then we go and get what we knew we should have had in the first place. It really does not take very much of anybody's time but it keeps the case in the place where it can be prepared and it does not clog the adjudicating machinery, which is bearing a heavy load now. In other words, it leaves the door open for negotiation with the department which has the greatest facilities for the purpose and it does not give us any more advantage because it will not affect us a bit, except this, that it will transfer the onus of delay from the commission and its bodies to us. However, our shoulders are fairly broad, and we will accept that responsibility. But where it is going to hurt is in the case of an applicant who does not resort to a qualified soldier body, who, perhaps, goes to a local solicitor; and I make no reflection on my profession when I say that, but I must admit that pensions is a very technical branch of law and the average solicitor knows very little about it. He goes to that solicitor who thinks he has a case, puts it in and it is declined. It has to go to the pension advocate, and he has got to start the matter all over again. Then it goes to the quorum and then it goes to the appeal court; whereas if it had been properly disposed of by the commission all that trouble and expense would have been saved. It should have been properly prepared in the first place. Pension applicants sometimes bother members of parliament, and mem-

[General Alex. Ross.]

bers of parliament are busy men and have not the time to follow up all of the evidence. The applicant puts his case in and it is turned down.

Well, while I appreciate entirely the minister's desire for some degree of finality I say that as the result of the 1930 experience, to go back to that would be most unfortunate at the present time, and I do not think that there is any great hardship under the present process. In any event, we wish you would ask the chairman of the Pension Commission about it, and I am sure he will agree that there is no great inconvenience, and I know that the chief pensions advocate will certainly agree that his life will be made intolerable if this goes through in its present form, unless you largely increase his staff. Don't get the idea that this is of any benefit to us, because it is not except in so far that, perhaps, we may suffer some delay but we will achieve the same results at the expense of delay.

So I ask you gentlemen: please don't touch the existing section particularly in view of the very strong testimony given by the chief pensions advocate who, after all, should know what he is talking about.

MR. THORSON: Do you think that section 52 in its present form is satisfactory?

General Ross: We have had absolutely no trouble. I have not heard the commission complain. I do not know where the complaint is, except that the general trend of the Act is to achieve finality. But I do not think that this proposal does achieve finality, because an imperfectly prepared case going to the tribunal fails, goes to the appeal court and it fails; then you have a man who is coming back and knocking at the door again to get in. I believe you can achieve a greater degree of finality by first exhausting the resources of the commission. After all, the quorums and appeal court are there for the purpose of satisfying the man and giving him the assurance of a square deal. The greater proportion of adjustments are made in the Pension Commission. Because the Pension Commission sits in Ottawa and because the man cannot see it and cannot feel it, he feels if his case is turned down that he is faced with some unseen force which is working against him. But if you are in his home town he gets in touch with the man who is doing the work and feels that he has had a fair chance of presenting his case.

But, after all, the greater number of these adjustments are made right here in Ottawa. The other machine is absolutely necessary as a safety-valve, but it is not the machine that really does the work. The object of this is to take it away from them and put it on the other part of the machine which in the end will break down. It has broken down now, if you put a heavier load on it you will simply have to get a larger machine and employ a great many more men.

*By Mr. Mulock:*

Q. Are you acquainted with the British procedure about finality of claim?—

A. Yes. The British procedure to limit to seven years.

Q. What do you think of their "out of times" procedure?—A. I do not approve of it, because, remember, when the British ministry say "out of time" they do not really mean it. In other words, there is a loop hole. The minister still has the right to grant pension. And, as I put it to a former minister, to this minister, and to the last Prime Minister, I said would you like to place your minister in the position of having the final refusal of pensions in Canada. I think they all said no.

Q. That is left to the British minister?—A. It is purely a ministerial act. I do not think any minister in Canada would want to accept that responsibility. I haven't found one yet.

Q. You do not approve of it?—A. I do not approve of it. No. The British Government themselves put on finality, but they left that loop hole. There are

from 600 to 1,000 new cases coming up every year, notwithstanding the time limit. It is pretty difficult for you have practically got to find a bullet in a man's carcass to be able to establish a claim, but it is done. They run from 600 to 1,000 each year. These are granted not as a pension but as a special award, a special concession.

*By Mr. Reid:*

Q. How many of them did you say there were?—A. Between 600 and 1,000 a year even now, although the British time limit clamped down in 1926. That indicates that you can never have finality on front line men, and the only thing is whether you want to leave this loop hole; at least, adopt the British system, placing the whole responsibility on the minister. In which case I suggest his life would not be worth living. Or else carry on according to the suggestion in this act under which you try to achieve finality by giving him only one shot at the commission. I say that experience has proven it to be wrong. Another thing on that point, before I proceed to my main submission, which will not be long: I am instructed to say that I have received protests from the country in regard to a statement made by Mr. Myers last week to the effect that pensions relief should be cut off, and that the War Veterans' Allowance Act should not be extended.

*By Mr. Mulock:*

Q. You were here when this evidence was given?—A. Yes.

Q. Do you approve of it?—A. Oh, no. Mr. Myers and I are great friends, and we know that we don't agree on that. But, it is simply a matter of gentlemen agreeing to disagree. There is no doubt about that at all. All I can say is this: We also disagreed in 1930 when the War Veterans' Allowance came in, although Mr. Myers at that time did not express his opinions in public, and the fears which he expressed then he now admits were not justified, we trust that his present fears will also prove unjustified. However, when we have a disagreement of that kind we always disagree as gentlemen. I respect his opinion and he respects mine. We disagree, but we do it agreeably. I think that is right, Mr. Myers?

Mr. MYERS: Quite right, General.

General ROSS: However, as I say, I felt that I was under an obligation to bring it to your notice that I had received protests, and I think I have done it in a way which is not objectionable to Mr. Myers.

I think that covers all the points that have been raised since I was last on the stand. I shall sum up in a very few words in this way:

This committee represents a major effort on our part. I have held my present post for something over two years, and I took office with a distinct mandate that I was to concentrate on two things; first, to secure improvement in pension administration, which I think I may say we have succeeded in doing to a very great degree. In other words, there is a very marked improvement to-day as compared with 1934. And the other mandate which I had was to seek to develop some method whereby we can secure for the unemployed man who is not and never will be pensioned some measure of assistance. To that I have devoted the greater part of my life in the last two years. And when I approached the present minister and the present government; following the representations which I had made to the previous government, and which were sympathetically received; I did so primarily with the idea of having this committee convened for one purpose and practically for one purpose only, and that was to see what this parliament could do for the unemployed ex-service man who faces a hopeless future to-day. It is quite true that in accordance with the established practice we first had to give attention to the legislation which had to be dealt with and which was properly referred to this committee. It

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seems to me a tragedy that we have spent so much time and heard so much evidence threshing out details of pension administration, and that we have overlooked the major purpose for which we asked you to be called together; and that is, unemployment. But, I hope that when you do proceed to write your report you will not forget that feature of it. There is an even greater problem than pensions in this unemployment situation. This country faces a very serious situation if we cannot devise some sympathetic method of dealing with the unemployed ex-service men.

Now, do not let me be misunderstood. Pensions are and still will be a vital part of our national life for many years to come. And we must never forget the rights of the men who suffered by the loss of limb or health in the service of their country. Such men must always occupy a large place in our interests and in our affections. But as I listened to the evidence here I wondered if the hands of the clock had been turned back and if we were back again to the days of 1930 and if we had not learned our lesson. Since 1922 or 1923 (whichever it was) we have been constantly changing our pension legislation. We have tried this to-day and we have abolished it. Then we have set up something else which we have tried again. Now, as a result of ten years of experience of this kind of work, this is the third parliamentary committee before which I have appeared and I have served on a special committee set up for that purpose, I have examined this process from every angle and I have reached the conclusion, gentlemen, that I do not care what machine you set up, I do not care what system you devise, unless that machine is administered with the men who have the qualities to administer it, it is going to fail; and we come back to the one fundamental fact that personnel is at the bottom of all our troubles, and the sooner we face that the better. I am absolutely opposed now to tinkering. We have got to make a few repairs here and there, but I am opposed to tinkering with the pension machine. But I do say this, that we have got to the point where we have got to get men who can make it work; and that responsibility is yours, and that of the government of the day. I do not claim to have outstanding ability, or to be anything but an ordinary average sort of a man, but after investigating the situation from every angle I say that that is my considered opinion, and I am prepared to prove it.

Therefore, the problem now is as to what manner of repairs we shall make to the machine; what other alterations we shall have to make so that it will function more smoothly; and then we have to find the personnel. The first, and the essential qualification, is that we shall have as a permanent chairman a man who has human qualities, sympathetic qualities, judicial qualities and above all disciplinary qualities. I believe that there are men upon whom the commission depends very largely for advice and assistance who have grown weary in well doing; who perhaps are a little bit rusty, who perhaps have lost touch and contact with human beings in dealing with files. Possibly some of them might be translated into another sphere of activity with advantage. I think probably there are those on the adjudicating machinery who have not measured up to the standard of their responsibility. I do not like to hear it said by one who has been charged by you with the responsibility of dealing with the problems of our men that he could not believe a reputable doctor because that doctor hasn't got records in proof that what he is saying is true. As one who sits in a judicial capacity on occasion, I have occasionally to disbelieve people who produce records; and I have had occasion to believe people who could produce nothing. That is where the human element enters into it. Those who sit in a judicial capacity must be able to form their own opinions as to the truthfulness of witnesses. They have to measure up to the standard of their responsibility, and that is going to require a high degree of discipline, much higher than we have had in the past. Given these principles your pension problems will largely disappear.

That is my summing up of the situation. While there are some minor adjustments to be made I ask you to keep in mind throughout that after all it

is inevitable that there should be failure in personnel, and the time has come when we have got to appreciate that fact; and instead of endeavouring to legislate to make people good we must endeavour to get good people. And if that is done our troubles will vanish. I think that is the commonsense method of approaching it. In any event, I can make no better suggestion. That being the case then, gentlemen, I ask you to direct your attention to what may be done for unemployment. I may not be able to offer you much in the way of constructive suggestion, but I do want to reiterate what I said at the outset; that all our present methods are depressing, degrading, and they are tending to the detriment of the country. Surely there must be in this country some ability that can show us the way whereby we can care for these soldiers on a self-respecting basis.

We desire in the first place that the present system of relief should be carefully overhauled, that inequalities should be eliminated, and that it should be put on an equitable basis. We desire in the second place that some consideration should be given to the cases of men who have no pension, and who have just as good a service record as their neighbour across the road who having lost a finger receives a five per cent pension and consequently is on government relief. I realize that to ask the government to assume the whole burden is probably proposing an impossible task. But I do say that some consideration should be given as to what can be done to equalize these conditions. Therefore, as I said at the outset, any fool can spend money but after all money should be spent wisely. The spending of money simply to keep body and soul together does not seem to me to be a sound policy. After all, as I said the other night somewhere, speaking for myself, I cannot see any use in existing if there is no reason for existence. And that is exactly what our men are facing to-day. They lack any reason for existence. They are told that by reason of their age and their disabilities and their lack of training that they are definitely shelved for the rest of their lives, they just have no reason for existence.

Now, what we are hoping for is that we may be able through this committee to devise some means whereby we can utilize the resources of this country to give them some reason for existence without at the same time ruining the country; that when we spend money we should spend it wisely and scientifically, and to better advantage; and for that reason we desire to harness all the resources of the country for that common purpose. There are a good many whom I admit it is going to be difficult to help because of their physical disability. It is for that reason that we have stressed the necessity perhaps—much against my will—but necessity has compelled me to take that view—that through the provisions of the War Veterans' Allowance Act we may be able to eliminate a certain number from the labour market and make room for others a little more fit where they can have sheltered employment.

*By Sir Eugene Fiset:*

Q. Has the Legion given any study as to the amount of money involved in paying for relief to returned men as compared with what it would cost the country to pay every man who has served in the line a pension or allowance of say \$40 a month. Have calculations of that sort been made by the Legion?—  
A. No. The Legion as a whole would not approve the paying of that amount as a matter of right to every man. I do not think I have yet developed my argument sufficiently, Sir Eugene. Perhaps in a moment I may be able to make clear what I mean.

We have suggested that the War Veterans' Allowance Act should be utilized to take care of a number of men whom it is almost impossible to place. Now, that time may come, and I must say that there is no one in the world who is more reluctant than I am to touch the structure of the War Veterans' Allowance Act. I thought at one time that I was the father of that Act. I have found out since that I was not. It is strange to say, but

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when I was out in the west, sitting down trying to solve the problem, Mr. Woods here and some parties over in the Daly Building were doing exactly the same thing. And, stranger still, although I did not know Mr. Woods at that time we arrived at the same conclusion as to this Bill although there was half a continent between us.

The DEPUTY CHAIRMAN: It was a case of great minds travelling in similar channels.

General Ross: However that may be, it is the fact.

I naturally have a very very strong interest in the War Veterans' Allowance Act and would dislike to do anything to break it down; but, as the result of the conditions with which we are faced, and of the views set out in my memorandum to the Hyndman Commission and which I have not taken the time to read to you—but it has the very best I could put into it as the result of years of observations—as the result of that, and in view of the findings of the Hyndman Commission I have reached the conclusion that the Act will have to be made more elastic in order to enable us to deal with the problem.

In other words, as I have indicated, the simple payment of money to men does not to my mind solve the problem. If a man has any strength left for work that strength should be utilized, and that is a fundamental principle of the War Veterans' Allowance Act and that is the advantage of the War Veterans' Allowance Act. The War Veterans' Allowance Act was never intended to provide a man with enough to live on. It was just intended to give him a stake and to encourage him and make for himself the standard of living that he wanted. It was a wonderful thing in those days, but times have changed and these things are not so easy. I say that simply paying a man to keep him alive is bad business; that he should be encouraged to work where that is humanly possible. Now, there is a very illuminating document; if any of you are interested in it you can obtain it, unfortunately I only have one copy of it and I filed it with the Hyndman Commission. It is a report of a Royal Commission held in the Dominion of New Zealand to study exactly the same problem some years ago. If you read that report, and it is really a marvelous document, it will be extraordinary to find how they reached exactly the same conclusions there as we have reached in Canada, and how the circumstances seem to run parallel. In other words, what happened in New Zealand was almost exactly what Sir Eugene has suggested. There when a pensioner was unemployed the state augmented his pension up to what was considered a living wage. That was very very nice for the pensioner; he in other words got enough to live on. But it was not long before the soldiers themselves decided that this was not a good thing for the state; because they found that these men being afraid of the difficulties of red tape that would result when they went on to a temporary job were not taking employment, and they were becoming paupers. The soldiers of New Zealand themselves went to the government and said now we want this investigated and we want to see what can be done about it. They had their commission and it arrived at exactly the same conclusions as those I have presented in my brief as a result of my study of conditions in Canada; and they recommend to their government the establishment of a commission very much along the lines of the one suggested in Bill 28; in other words, they mobilized the resources of the veteran body, the civilian body and the state to give these men a helping hand back to work. In New Zealand it goes so far that when they offer a man a job and he will not take it he is cut off relief, and with public opinion behind them he stays off. While we are not suggesting that at the present moment I submit that it is something to work on. In other words, we claim for every man the right to full maintenance. We also claim for him the right to work. But we also must admit that in the case of these handicapped and disabled men we have to do something more than just simply house and clothe them, we have got to get them work and we must help them



to get it. And that is my idea of that commission. Remember, as I told you before, it may be pure idealism. It may not work. To my mind however it is the only solution apart from embarking upon economic theories which I am not qualified to discuss, and which I am sure you do not want discussed. It is the only way we can help out any of these men. In other words, what we are asking now, is that you consider whether returned men can be adequately maintained without too great an expense to the nation, and that you will tie in with that some head charged with responsibility of developing or creating employment for him, and give him a chance to get back to work. That is what we are trying to do. We may fail, but I would like to have the opportunity of trying. I should like you gentlemen to give us your assistance. I think we have done our part in developing the case to the utmost. As an organization composed of every rank of society, we naturally do not discuss or encourage economic theories. We are endeavouring to do something within the ambit of our existing social organization. We ask you to see to it and it is your duty to see that an adequate scheme of maintenance is provided, and that in Bill 28 as it may be improved, you will give us the nucleus of machinery which will mobilize the resources available, with the public assistance, to develop work where work can be developed, and that you will also endeavour to remove from the labour market men that cannot be properly employed in any employment, or placed in positions where they can use the strength they have to maintain themselves.

All these things can be worked out if we try to do it. Surely we can do it. The whole idea behind this organization is to tackle this problem on a national scale. It is not intended to create a central body that is going to solve all these problems. It is only intended to be a co-ordinating body working in conjunction with organized units in every important centre of the country, which in turn will be charged with responsibility of enlisting a staff of competent men, people who are interested in the veterans, who will attempt to solve these problems. This body we hope will do all they can to take the men out of the slums and give them a chance to maintain themselves in some degree of self respect. Now gentlemen, that is my submission. Pensions, yes. We must give the best; but over all there hangs the problem of unemployment. We appeal to this parliament to see if something constructive cannot be done to enable us to solve this problem which is simply crushing us down completely so far as the veterans are concerned. The veteran is far worse off than any one else.

I have tried my best; I do not claim to have any qualifications for doing more than study the cases. I do not claim to be able to solve the problem, but I have brought the problem to the place where it can be solved if capable of solution, where we can get the best advice and assistance in solving it; and I ask you this, as I leave the stand, which perhaps is my last appearance before a parliamentary committee—I hope it will be—I hope we shall not have to come back. I ask your co-operation and assistance in helping us, and we on our part will pledge you as an organization to do what we can to give every help that is possible to build a better era and things for those who are unemployed.

*By Mr. Emmerson:*

Q. May I ask you what your opinion or the opinion of the Legion at the present time is in regard to civil servant competition where, of course, the preference is given to the returned man? Take the case of where two men compete; they have equal qualifications but the man who is drawing a pension gets the preference. He is incapacitated, but not due to any pensionable disability. What is your opinion in regard to that?—A. My opinion is this: That is one of our problems to which I have given the greatest possible consideration. I have endeavoured for a long time to find some formula, to solve it but I cannot. Originally the soldiers' preference was introduced as a reestablishment measure,

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and being a reestablishment measure naturally the first chance went to the man who was physically handicapped overseas. Everyone will agree that that was a perfectly sound proposition, because pension is not income. Pension is not given a man to live upon; pension is compensation for that which is taken away and which no one can ever restore. A man is a 50 per cent pensioner, and he is claimed to have only 50 per cent efficiency. But it was certainly the policy of the government of the day, as it was our policy to encourage these disabled men to go to work and make for themselves a place in the community where their lives would not be wasted, and consequently they got that preference.

Now we never heard a word of criticism on it until the situation developed that jobs were hard to get, and then we did hear criticism and plenty of it. I do admit that there are cases of hardship. I have one case in mind where a single man with some pension was able to secure a very good job over a man who was not a pensioner who had better service, and a wife and six children on relief. That does not strike you as being wrong. But the question is how can you tinker with the act without spoiling it. I don't know. The principle was sound to start with, and it still is sound. The only thing is it does not always work freely.

*By Sir Eugène Fiset:*

Q. You will remember the last committee we had. I think both of us were here?—A. Yes, sir.

Q. It was suggested that this preference should apply only to married men with families? That was one of the suggestions that was brought before us, if I am not mistaken, but it was not acted upon?—A. That is a very good suggestion. I should like some change but I am afraid to tinker with the act. If we tinker with the act we may lose the whole thing; I am very much afraid of it.

*By Mr. Reid:*

Q. Have you given any attention to the 90 per cent or 100 per cent pensioner who is holding a government job as well?—A. I have, and I cannot solve it, and I do not know how it can be solved.

*By Mr. Mutch:*

Q. It only becomes a problem if you admit pension is income?—A. We don't admit that.

Q. Where is the problem?—A. Oh, people say, "Here you have a man who is drawing \$140 a month and has a job and I have not got a job."

*By Mr. Reid:*

Q. A man who is 100 per cent pensioner is said to be physically incapacitated and cannot do any work. We are paying him a full pension, but when a competition is held he gets a preference in the civil service although the country has granted him either adequately or inadequately 100 per cent pension. What do you say when that position is put to you?—A. My answer is always this: Instead of criticizing that man, we should pat him on the back and say good fellow for having courage enough to go out and overcome your handicap. He is handicapped on the basis of what he could accomplish at physical labour. If he has any residue left that he can utilize, why should he not exercise it. They always pick out the civil service. That is the unfairness. You are going to penalize the civil servant, but you cannot get at the other fellow. I have a standard case in mind which I always cite. There is in the post office in one city that I know, a man who is practically a double amputee. One arm is useless, and the other arm has a slight motion in it. He has got a certain job, which is cancelling post office money orders. All day long he sits and taps his post office money orders, and gets a salary. They want to take that fellow's job away from him and give it to somebody else. Across the street, there is a lawyer who is a double amputee, but he

is practising his profession. He is a young and brilliant man, and if conditions were good there is no reason in the world why he should not earn \$5,000 or \$10,000 a year. It is the little fellow in the post office that will be affected, but no one in the world can stop the lawyer from getting the salary and a pension as well. I have approached it from the angle of the men themselves and every other angle, and I cannot solve it, nor do I know how it can be solved. But you must remember that pensions are not income. You cannot penalize a civil servant, without penalizing the man in civil life. Once the government sets an example you will get individuals who will seek to exploit the handicapped man by saying "You are getting a big pension, therefore, you should take less pay."

*By Mr. Thorson:*

Q. It must not be forgotten however, that a pension is awarded for disability?—A. That is the basis.

Q. And that basis has been applied to everybody?—A. No; the thing they forget is this: Suppose a man was a brilliant surgeon and was making \$20,000 a year. He went overseas and lost his right arm. How much pension does he get? If he had the rank of captain he gets almost exactly the same as the private soldier. A bricklayer in normal times draws \$12 a day. Suppose he went overseas and lost his right arm. In that case he would get the same as a common labourer. There are all those inequalities. If the bricklayer is going to get back to the standard of living he enjoyed formerly, he must get another job, otherwise he has to come down to the standard of his helper. You have all these complications in the problem.

*By Mr. Mutch:*

Q. That only involves other ranks?—A. The officers' compensation is on exactly the same basis, but a little higher. I have gone into it very carefully and I find the total amount is not very large.

Q. I am not worrying about that.—A. I know, but I have heard it raised, and the amount is so small. The principle is perhaps wrong, but the amount is quite small in actual cash.

*By Mr. Mulock:*

Q. You were discussing the personnel a few moments ago. Are you satisfied with the personnel of the quorum?—A. Now, Mr. Mulock, that is a very difficult question to answer, but I will answer it. Generally I will say yes.

Mr. Ross: You have answered it generally.

*By Mr. Mulock:*

Q. We want to find out what branch is not being administered properly, and if we know where the trouble is perhaps we can correct it.—A. I am talking about the pension commission, and of course, also the medical staff requires overhauling.

*By Mr. Mutch:*

Q. And the appeal court?—A. You can examine that also. I say the whole thing requires overhauling.

*By Sir Eugene Fiset:*

Q. Are they appointed during pleasure?—A. No, they are appointed for a term of years, subject to good behaviour. I think that possibly some system should be introduced such as we had in the army so that when the chairman or some other competent person recommended a person was not qualified temperamentally—that is a great difficulty—to discharge those particular duties, the minister should have power to retire him with compensation. We

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always take a chance. The minister says that man gets in there and inside a year he is unpopular. That is quite true. A great deal of this is true because things have been so badly done in the past, and so many men have made themselves unpopular. I stand absolutely upon the principle of security of office. I protested against the dismissal of the tribunal. I protest the dismissal of anyone who has been appointed for a term of years without cause. It is an unsound principle and works to our disadvantage, but after all there should be some means or other whereby a person who is appointed and proves himself unfit, to transfer him to another sphere, or in any event to a place where he will be innocuous. We have to be sure the men who are doing that job are qualified to do it; and after all it does not take so much. The fundamental feature of the whole thing is that both the doctors and the commissioners must be able to place some value upon evidence. The great trouble to-day is that they seem to run in grooves. I mentioned the standard example of an outstanding surgeon why may appear before them and say, "I remember doing so and so on such and such a day." Then they will turn around and say, "We believe that is true, but we are very sorry we cannot except the evidence because you have not any records." That is evidence in my mind, of inactivity.

*By Mr. Reid:*

Q. You are speaking about the personnel...—A. I stand for the principle of security of tenure, but there must be some way whereby we can get that security and also get efficiency.

*By Mr. Mutch:*

Q. You cannot have it both ways?—A. In that case, I suppose we shall have to stand for security of tenure, otherwise we will get nowhere.

*By Sir Eugene Fiset:*

Q. Are they appointed under a statute or order in council?—A. Order in council.

Q. That is all?—A. Yes.

Q. Then I do not think there is much difficulty there.—A. But they are appointed for a term of seven years, subject to good behaviour.

*By Mr. Reid:*

Q. Perhaps you will not agree with me when I ask this question, but it has been always put to me, anyway, that the greater proportion of the personnel has been chosen from the rank and file rather than from higher up?—A. I may say quite candidly, Mr. Reid, that I have nothing to do with the selection and never have. Let me make this clear: Since I have had anything to do with legion policies, we have distinctly kept our hands off that. That is a matter of governmental responsibility and we are not taking any chances of recommending men if we have no control over them after they are there. I discussed the matter with successive ministers and rank does not enter into it at all. If the man who is available happens to be an officer, well and good. But remember this: From the early days the Canadian army was very largely officered by men from the ranks. After the first rush our officers nearly all came from the ranks. It is no reflection on private soldiers that they are not officers. Many of them were knocked out before they had a chance. I know in my own battalion probably a hundred men who would have received a fairly high rank if they had not had the misfortune to be killed or seriously wounded before their chance came. Therefore if a man is a private soldier or an officer it is no reflection on him. But I say their rank is not the basis of appointment and could not be because we have in the officers ranks men of equal ability, for the reasons stated, we have no officers class in Canada. I do say this:

We have officers from the ranks and they were the man who at that time displayed ability and leadership, and they got promotion. I have never heard any suggestion that a man was appointed to this commission because he had rank. As far as I am concerned, if we can produce a man who can do the job I do not care what rank he has.

*By Mr. Mutch:*

Q. I have had the honour to serve under some very fine officers, and I am wondering whether the fact that ranking men are appointed is just a coincidence. I have heard it said that only men with the rank of lieutenant-colonel over a period of nearly six years were appointed. Probably that is stretching coincidence to the very limit.—A. I do not know. In the present commission the ranks are not very high; they are mostly captains and majors, one private soldier.

Q. A very good one.—A. I am not here to express an opinion about anyone.

Q. I would not expect you to.

*By Mr. Green:*

Q. In speaking about this unemployment question, apparently your idea is that there should be a committee in each of the cities, shall be say, to help this veterans' assistance commission. Do you think that Bill 28 gives ample power for the appointment of such assistance committees in each city?—A. No, I do not think so. I tried to say that in my previous statement. I have spoken to the minister; as a matter of fact the minister has been good enough to ask me to assist him in making some changes in the Bill, which I am going to do the first time I have a chance.

Q. There seems to be nothing in the Bill to provide for a local committee?—A. No. The minister and I discussed the matter when I gave evidence before, and he asked me afterwards to be good enough to look the Bill over and see if we can recast it to make my idea clear to give power to appoint a committee. I will do that before you write your report.

Q. We have had some evidence here of the fact that the commission may award a pension and then the treatment branch of the department or of the commission, I do not know which it is.—A. Of the department.

Q. Might nullify that award. Explain that.—A. They won't admit that, but it is the same thing in practice. On the file here, but not for publication, I have information for the committee on a number of cases where that has been the result. I offer information on some very outstanding cases and suggest that a subcommittee might be employed to investigate the cases. It is perhaps a question of responsibility; but I do say the fact is that by reason of the fine distinction they draw between psychopathic conditions, particularly. It applies particularly to psychopathic conditions. There are men in hospital to-day not on compensation, but who have been pensioned for a psychopathic condition but are not being treated with compensation. In such cases the treatment branch will not admit they have got what the pension committee says they have. That is the fact.

Q. You complain that that applies to medical treatment?—A. Medical treatment, yes.

Q. Not on the amount of the award?—A. Oh, no. In that case the Pension Commission gave him a pension and then the man required treatment and had to be admitted to an institution, and when he got there the medical staff said, "No, the commission are all wrong, he has not got the thing he is said to have. We will keep him as a class something-or-other patient but no compensation!"

Sir EUGENE Fiset: Ask for a board of consultants.

General Ross: I ask that you verify my facts. I do not like legislating for these things, but I do think that possibly you might ask the treatment branch

[General Alex. Ross.]

how they reconcile themselves on the fact. I have drafted an amendment here. I do not think it is good enough, but it expresses what I have in my mind. It will not work. I admit that.

Sir EUGENE Fiset: Captain Gilman insisted on a board of consultants in regard to certain cases.

General Ross: Yes. A board of consultants might solve it and might not. I lay down this principle that if the Pension Commission admit a mental condition and admit the man to pension that he should be treated if he is to be confined in an institution. It is a pensionable condition and they should not refuse treatment because somebody else disagrees with the original diagnosis and says, "No; he has not got that. He has got this." It is like the case I cited you the other day where a man was admitted to hospital, pensioned for a psychopathic personality aggravated. He received a full pension and treatment. After he had been in the mental institution the psychiatrist came along and said: "No; the Federal Appeal Board must have been wrong when they said he had psychopathic personality because what he has is Huntingdon's chorea; his condition is a congenital one and therefore he should not be pensioned and we cannot treat him for that." Now, how did he get rid of his psychopathic personality? The result was that he was cut off and it took four years to get him back on.

*By Mr. Green:*

Q. What amendment would you suggest?—A. My suggestion will not work, but it gives you my idea. Now, remember, I say that this will not work, it is impossible; but it gives you an idea of what is in my mind:—

Provided further that when entitlement to pension has been granted by the commission the pensioner shall be entitled to treatment in accordance with departmental regulations notwithstanding that departmental medical authority may disagree with the diagnosis of the commission.

Sir Eugène Fiset: One conflicts with the other.

GENERAL ROSS: Departmental regulations entitle a man to treatment for his pensionable condition.

*By Mr. Green:*

Q. To what section would you have that added?—A. Section 5. Remember, I say that it is not right; I do not know how to work it out. After all, that is not my job; I am not a doctor. I do not know how to express it properly. I am giving you my idea. I say that when the Pension department decides that a man is pensionable he is entitled to it, and nobody has a right to take his pension away from him.

The DEPUTY CHAIRMAN: Are there any other questions that any member of the committee would like to ask General Ross?

*By Mr. Thorson:*

Q. You mentioned the question of personnel. You have heard all the evidence that has been given with regard to the proposals contained in the present bill to amalgamate the Pensions Appeal Court with the Pension Commission. Would you care to say anything further with regard to that subject?—A. Yes.

Q. And make any further suggestion?—A. Yes. I made it clear at the outset. I believe that much of the criticism of the Pension Appeal Court is ill-informed or based upon faulty information. I also believe that, perhaps, certain members of that court at times have left themselves open to criticism by, perhaps, appearing to be unduly technical and logical; but after all is said and done you will find it very difficult if you come to carry out an analysis to really prove that they were deliberately unfair or unjust or influenced by any external



influences. It happens to be their mental temperament. However, I go this much further and say that it is quite evident from the evidence which has been given here from every part of Canada that the court—as I say, perhaps unjustly—is not at present satisfactory to the ex-service men. Let me say—and I want to be quite clear on this and I hope it will appear upon the record—that I do not think it is justified; but the feeling does exist, and with that feeling existing it will be absolutely fatal to the success of anything you do to incorporate that court in the Pension Commission. I say on behalf of my organization, I strongly oppose the proposed amalgamation and would much prefer to leave things as they are rather than have that amalgamation. As I say, I am probably the only person who has come before this committee who has had a good word to say for them, and I am saying it. After hearing all the evidence it is quite impossible for me or anybody else to go around this country and disabuse the minds of the troops of the impression that has been created; and that impression being there, and the Pension Commission having been under the present chairman to a considerable degree rehabilitated in popular esteem, it would be fatal to include the other body in the commission, because it would be under the suspicion that there was an attempt being made to apply hard and fast rules and regulations to the administration of pensions. While they are under a certain degree of suspicion, it would be extremely unfortunate in the long run.

Q. May we take it that the Legion would prefer to have the present set-up of an independent pension commission and an independent pensions appeal court rather than have the two merged within one commission with an appellate division in that commission?—A. Yes. We would rather have that than have the merger.

*By Mr. Mutch:*

Q. Do you mean that you would rather have the present set-up than have the personnel of the present appeal court merged?—A. Yes.

Q. You are not suggesting that if, for instance, we merged the appeal court and the commission or changed the appeal court in the merging then you would prefer it?—A. No. I am not going to say that now. That comes down to personalities. You are asking me to give an opinion on something I should not speak of.

Q. Pardon me, but it seems to me that is all that makes any difference?—A. No. I am simply putting in on very broad lines that the present proposal is the only one before me, and that contemplates a merger of the two. I am opposed to it. You are suggesting that if we had a different personnel it would be all right.

Q. I am asking that?—A. If you were building afresh, yes; but that trespasses upon the other principle which we had discussed, that there must be some security of tenure; and we cannot go around dismissing people because we happen to disagree with them. I may have taken perhaps, an unpopular stand on that but, after all, I had to be consistent and we opposed the abolition of the tribunals on that basis.

*By Mr. Thorson:*

Q. Are there any suggestions you would care to make as to how the members of the Pension Commission and the members of the Pensions Appeal Court might be, let us say, humanized or broadened out?—A. I have given some thought to that. Presuming we maintain the present set-up?

Q. Yes. Presuming we maintain the present set-up of an independent commission and an independent pensions appeal court.—A. I do think that our experience has shown that where you have a body that sits perpetually in Ottawa, which is dealing with matters so essentially human as pensions, that there inevitably arises a suspicion that it is purely departmentalized and under government control; and I do believe it is helpful to all of them from time to time to get into contact with realities. It is very good for the men themselves to see what I call our human exhibits in the form of our disabled,

[General Alex. Ross.]

and is very good for the men themselves to get an appreciation of the men who are dealing with their affairs.

Now, I suggest that the court under the present system is handicapped—the court will not agree with me on this, but I am giving my own opinion—it is handicapped by reason of the fact that they very rarely contact with the material with which they are dealing, and it would, I think, be a very sound principle to follow the principle which is generally adopted in creating other appellate divisions to make the members of the court *ex officio* members of the commission so as to enable them from time to time to do trial work, and to further provide by law so that there could not be any way of getting around it, that for three months in every year one member of the court, not the president, should go out into the country and learn a little about the human element; and when he went to the country we would take one of the commissioners and put him up on the court where he would have an opportunity of being educated in the matter of the interpretation of law and the laws of evidence. That would do them a lot of good, and also it would have the effect of preventing what may easily arise, a sort of family compact. When you have men coming together day after day, they are liable to get into a groove, and the introduction of new men occasionally tends to help a bit. That is a suggestion. I am not asking for it. I am suggesting that as, perhaps one way whereby we can introduce that human element which may be necessary to make our set-up a little bit better.

Sir EUGENE Fiset: Whilst the members of the appeal court would be on duty with the Pension Commission would you take a member of the Pension Commission and put him on the court?

General Ross: Yes.

Sir EUGENE Fiset: Is that the idea of the bill?

General Ross: No. The idea is to put them all in one, but under my proposal the court remains as a separate entity. It removes the difficulty of having people sit on cases that have been tried before, and it also removes the objection which I find is very strong—I did not stress this point, but I heard it raised in evidence—to a legal man the bill at present presents no difficulties, but I do find that it presents tremendous difficulties to the laymen; and as a matter of fact, I have found that even our present system of quorums is under criticism for the reason that they say that the body that goes out in the field to try cases is sitting in appeal on cases already tried. Everybody knows that is not the fact; the actual fact from a legal standpoint is that we have in our pension commission exactly what we have in all our courts—we have our chamber practice which is carried on in the board room of the Commission where the judge, represented by two commissioners, sits and passes on cases which are evident; we have the trial division which sits to try the cases that are not evident; and then we have the appeal division which sits in appeal. That is the set-up. It is quite clear to the legal mind, but the laymen think that because the chamber judge is in the same court as the trial judge that the trial judge is sitting in appeal on his own work. I am talking of our present set-up.

*By Mr. Reid:*

Q. Are you right there; because I have a complaint in regard to a quorum—I am not going to give any names—they went to Vancouver and complaint has been made that the chairman or one member has already adjudicated in 1922 and 1923, and he is hearing the case all over again—A. That situation could easily be corrected. 1921 and 1922—that must have been one of the old commissioners. There are only two of them left but that would happen very rarely. It is not in accordance with the act that a man should sit again on a case which he has tried.

Q. The case was heard many years ago, and he could not do anything else but give the same judgment?—A. I know what you mean. That case could have been handled by an objection from the advocate, and if I had been in the commissioner's place I would have said, "I will not hear the case." I do not know what he did.

Q. There was no objection to it.—A. If there was no objection, you cannot complain.

*By Mr. Mutch:*

Q. If the set-up is left as it presently is, would it, in your opinion, improve matters if we reverted to the original condition where all three members of the court sat on the case, rather than two?—A. I am asking for that. I am asking that you make the quorum three; that the appeal court shall always be three. That was a change made only two or three years ago. They should all sit together, and if they have not three they should have power to co-opt a commissioner. They might not like that, but they should have power to do it.

Q. They will not like it?—A. I am not worrying about that. I am the only friend they have here, and I am expressing my opinion.

*By Mr. Thorson:*

Q. Your suggestion is that they should be required to do it?—A. Yes, absolutely. Every court in the country does it. I do not see why the appeal court should be sitting in solitary state. If the Supreme Court of Canada is short a judge they will send to Ontario or Quebec and get one, and I do not see any reason why the Pensions Appeal Court could not do the same thing.

*By Mr. Green:*

Q. With regard to this question of a dead-line for pensions, don't you think it is pretty rough to cut the front line men off?—A. Absolutely. I have a little idea on the subject. I do not know how it can be worked out; but I had an idea. I can see that you are going to have a lot of trouble—the men who served in England who were in English service—who will draw attention to the men who baked bread or had some soft jobs in France. Their jobs were of a more or less protected character in the rear, but because they were in France instead of England, they are still entitled. I saw the other day something in the War Veterans' Allowance Bill which has just been passed in New Zealand. I may say that New Zealand has copied our War Veterans' Allowance Bill almost entirely, but there is a new definition: instead of "theatre of actual war" it is "in actual contact with the enemy". Some such definition might meet the case.

Now, these men, we say, cannot and should not be cut off; but I say that the British experience has proved that there is never finality in regard to a man who has served in the front line, and I am strongly opposed to any deadline upon these men. That is also true of my organization. We are prepared to go as far as possible to meet the case, but I cannot see any way around it. In a couple of years, if we get the Pension Commission functioning efficiently and the Court of Appeal functioning efficiently, it may be possible that we can delegate duties, which are now performed by the British minister, to one of those bodies satisfactorily; but until we get that going properly we do not want to commit ourselves to the principle of an absolute deadline, not knowing to whom we are going to have to apply in order to secure rights in obvious cases.

*By Mr. Brooks:*

Q. Your argument of a few minutes ago seemed to me sort of to confirm the idea they had of merging the appeal division and the commission—that is, that they would come into personal contact with the men. Now, as I read section 7, it says:—

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There shall be an appeal division of the commission which shall be composed of two or more commissioners to be selected from time to time by the chairman, which shall hear appeals as provided in section 61 of this act.

Now, would you name three men for the appeal division for the whole time?—A. In this case I am always preserving the court as a separate institution. My suggestion is simply a move in an endeavour to meet the objection that the appeal court tends to become isolated, sitting, as it does, always together. I think it might be useful, as an experiment, at least to try a little change; but the nucleus of the Pension Appeal Court sits all the time, two permanent men with the inclusion of a third. The present bill contemplates the whole going into the pot and we never know from day to day who the appeal court is going to be. The suggestion I am making—I have no authority to make it except that I have thought about it—is that there would always be two permanent members on it to give it a certain amount of uniformity, but you would have the inclusion of new blood, and you would have the educational influence of one of them going out into the country.

Q. Could not that be done under this section?—A. It could be done, but that personnel would change from week to week probably, and you would never have any permanency in that.

I am not objecting to that at all, but I do say this, I am not worried about the soundness of the system proposed in the bill—I tried to elaborate that a few moments ago but someone interrupted me. You are going to find a tremendous objection from the troops to the same people sitting in appeal, as they say, as sit on their cases. And you cannot get it out of the heads of the average men that the court-en-banc idea is unsound. In other words, it used to be common in Canada but now it only exists in Nova Scotia; in the other provinces of Canada we have the appeal divisions. I have heard the statement made here that it is not in accordance with British justice that members of the trial court should sit on appeal: That idea is erroneous. It seems to me that we have got to realize that this idea is prevalent and being prevalent it is very difficult to eradicate. Consequently we should retain a separate appeal division to meet this objection. But some suggestion as a compromise between the idea suggested in the bill and the other idea of maintaining the absolute status quo without affecting the position of the other body might be beneficial. I think you get the idea now.

*By Sir Eugene Fiset:*

Q. To carry out your idea would it be necessary to have an amendment to the Act?—A. Yes, the Act would have to be amended.

*By Mr. Thorson:*

Q. Is it your view that the soldiers throughout Canada want to maintain all the rights of appeal which they now have?—A. Yes. We want the right of appeal. We would not like to let that go at present. It was granted to us after a long struggle over many years, and I am not in a position to say that we are prepared to relinquish it.

Q. You would like to have the right of appeal from the judgment of the commission to the quorum, and then from the quorum to the pension appeal court?—A. There is no appeal from the pension commission to the quorum, as I tried to explain. It is simply and exactly a chamber practice; when you come before me as a master you make application for a speedy judgment; if you have an undisputed case you get it, and if you have not it is sent down for trial. It is not an appeal, it is a reference.

*By Mr. Quelch:*

Q. You admit that the present set-up of the appeal court is not satisfactory to the rank and file?—A. From the amount of evidence given before this com-

mittee it must be apparent that there is a very strong feeling in the matter. I am not prepared to say it is justified, but unfortunately I am not in a position to convince them to the contrary. I do say, however, that it is quite evident that there is a very strong body of opinion against the present appeal court. That is the point.

*By Mr. Thorson:*

Q. You think your suggestion might tend to humanize?—A. That is the only suggestion I can make.

*By Mr. Mutch:*

Q. Would you suggest that that feeling is general in your own organization?—A. It is. I could talk to them as man to man and I can get some of the men and disabuse their minds. Collectively, no; individually, I succeeded occasionally in changing their minds, but it takes too long to go around to them individually.

The CHAIRMAN: If there are no further questions I think probably General Ross would like to get away. I think it is the desire of everyone here that I should thank General Ross for the evidence he has given, for the character of his presentation, and for the time, energy and study he has put on the case.

Mr. THORSON: Will General Ross be available to us when we are drafting our report?

General Ross: I will be available, as long as you let me know when you want me. I will be back Monday, I want to discuss that matter with you; and I want to go home. As long as I can be of use to you I will stay here. I am at your disposal. I will be glad to come back whenever it may be necessary, but I do not like to sit here and do nothing.

The CHAIRMAN: You will be back on Monday, sir?

General Ross: I will be available on Monday. At what time will you be meeting?

The CHAIRMAN: That has not been decided yet.

Sir EUGENE Fiset: Better leave it until Tuesday.

General Ross: I understand there are a number of departmental witnesses to be examined.

Mr. THORSON: Captain Baker is here for the Sir Arthur Pearson Club. Is it your intention to hear him to-day?

The CHAIRMAN: Captain Baker and Mr. Lyons were to be here to-day in addition to General Ross. Our time is pretty well gone. I do not know how long Captain Baker is going to take but probably he better be heard now.

Mr. REID: You had better find out how long he will be.

Mr. GREEN: He could get started anyway. It is only half-past five.

General Ross: Before I leave the stand again, I desire to thank you gentlemen for your courtesy and consideration. I can say it has been a very pleasant experience to appear before this committee and I hope I have not bored you too much. I thank you.

Witness retired.

The CHAIRMAN: If it is not going to take more than half an hour for either Captain Baker or Mr. Lyons, the one who would be taking the shorter time might be able to get through pretty well.

Captain BAKER: As a matter of fact, my submission is very brief. I came down purposely to-day because I understood from the wire I received from Mr. Thorson that you would like me to come to-day. I contemplated leaving tonight on account of a meeting in Toronto tomorrow, and I certainly would undertake not to keep you past your usual time.

[General Alex. Ross.]

Captain E. A. BAKER, recalled.

The CHAIRMAN: Captain Baker is going to address the committee further with respect to certain matters about which he spoke some time ago, in order to bring in some new evidence.

WITNESS: Mr. Chairman and gentlemen: I appreciate very much this opportunity to say a few words to you. I have not prepared any additional brief by on behalf of the Sir Arthur Pearson Club of Blinded Sailors and Soldiers which I have the honour to represent directly, and because of my association with the Amputations Association, I was naturally interested in the first presentation which was made to you in respect to widows' pensions when we were privileged during General Ross' opening presentation to say a few words, and then again on the 29th and 30th of April when the presentation made by Mr. Myers on behalf of the Amputations and Blinded Soldiers came before you. We are naturally keenly interested in the matter of widows' pensions. We appreciate very much the proposed amendment which was brought forward by the minister, but we do hope that you will give consideration to the additional group of widows of pensioners in classes 6 to 11, because we have stated the condition of this seriously disabled group; and I note some degree of unanimity in veteran circles as to the reason for this extension. It will not cost any material sum as we endeavoured to point out in our earlier submission, it is simply a question of saving money in respect to the payment of a pension in such a case at the expense of the widow. We hope you will give that special consideration.

There is one small matter which affects blinded soldiers especially when hospitalized. As most of you know in addition to his pension a blinded soldier has an attendant allowance, and when he goes into hospital, as one of our blinded soldiers did — as a matter of fact he was one of the first to be blinded through wounding in service overseas. At the time of his casualty he received a large dose of bits of tin and scrap metal from a pile of bombs which was exploded by an enemy bomb, and every few years one of these bits of metal, I don't know why but probably because of muscular action, causes a swelling — in this case it was in his forearm, and he had to have the pus drained from the wound and the piece of metal removed. During the period he was in hospital, practically three weeks, a deduction was made in the usual way with respect to maintenance amounting to the equivalent of \$30.00 a month. In addition his attendant's allowance was cut off for the period he was in hospital. Now, of course, I have discussed this matter on many occasions with the department and their attitude is that they have nurses and orderlies and medical staff in the hospitals who are expected to take care of all the needs of all the patients there. I did however submit, as I now submit to you, that a blinded soldier has certain needs which the ordinary patient has not, in that he has no way of putting in his ordinary time while in hospital by reading the paper or enjoying certain other attractions that those with sight have. If he is able to get up and about, obviously the orderlies or nurses cannot take time off to guide him around unfamiliar surroundings. Therefore, I do place before you this question of the deduction of the attendant's allowance particularly in the case of the blinded soldier who may be hospitalized from time to time, particularly for service disability. It is not a large item. There might be five or six in a year and on the average for comparatively short periods of time. I will leave that with you.

We are, in common with all other veterans' organizations, interested in the welfare not only of disabled men, or partially disabled men, but in the welfare of veterans in general. We have been passing through a troublesome period and we are naturally concerned with this question of unemployment. We have been earnestly hoping for some solution which might be supposed to alleviate unemployment conditions. Now, I think if some erroneous



impression was created—I am not prepared to say by whom, or how it happened—but following our presentation the other day there was a suggestion that the Amputations Association and the Blinded Soldiers were presumably a group of pensioners who were adopting a dog-in-the-manger attitude. May I suggest that that is not the case. If you like, we are a group who may be considering the whole problem dispassionately because none of our group figure in the relief lists; but may I suggest that we have seen the difficulties which have arisen as a result of direct Dominion government relief to the partial pensioner divorcing the interest of the community and the private employer in the matter of local employment; in that if two men came up for employment and one was a partial pensioner, no matter how small, the man who had no pension got the preference because the community or the private citizen reasoned that if they do not give the partial pensioner a job he can look to the Dominion government anyway for his relief. Now, that is an unfortunate situation, particularly when you take into account that these partial pensioners in the past and in good times when they happened to have employment were paying for their homes, paying their taxes and carrying the responsibilities required of any citizen in that community; yet when it came to troublesome times they were deprived of the privileges of the community as compared with the other chap who might not have gone so far in accepting his community responsibility. Now, in this respect may I suggest that it is not a question of direct opposition by the Amputations Association and the Blinded Soldiers in the matter of War Veterans Allowance, or direct relief or anything of the kind. All we have attempted to do is to place squarely before you our views and conclusions. It will be your duty to decide whether our argument should be given any weight.

In this whole matter you have heard views expressed from other angles. I can appreciate that point of view and sympathize with it; but, being primarily interested in the question of employment and the finding of a solution for the difficulties of so many of these fellows we have felt in our own consciences that the application of Dominion Government relief whether through the direct relief policy or through the War Veterans Allowance would tend to remove these remaining shreds of community responsibility. Now, that is an opinion which you may accept for what it is worth, or which you may reject, but we have simply placed it on record with you. In doing this we are not opposing anybody, we are simply stating an opinion. As a matter of fact I think I may claim to have taken as much of a part as anyone in trying to arrange for a joint representation to this committee so that there could be no question of confusion or divergence. We all appeared here on the first day and it was apparently because some of the programs were already completed that it was not possible to compromise and give one general view, but I do not think you should thereby be too much confused. It is true you have heard many and somewhat divergent opinions, but they are before you and you must sit in judgment. I only hope, in fact I feel confident, gentlemen, that with the experience you have gained and with the submissions you have received you will be able now to proceed to the development of solutions for some of these problems which have been outstanding for so long.

Now, I do not think that I have anything more formally to state to you at the moment. We do appreciate the patience of your hearing. I am only sorry that I was not able to be here throughout the whole session and sit in with you, but that was not possible. I appreciate the consideration you have given me and I wish you all success in your deliberations. If there is anything further we can do to assist you we will be only too pleased to do it. Thank you very much.

The CHAIRMAN: Thank you, Captain Baker.

[Captain E. A. Baker.]

Mr. GREEN: I suppose other witnesses would like to be heard?

WITNESS: I may say, Mr. Chairman, Mr. Lyons is here.

The DEPUTY CHAIRMAN: Does Mr. Lyons wish to be heard now?

Mr. LYONS: In connection with the submission I was going to make, may I say that Captain Baker has covered it very well. I was going to make a submission on behalf of the Sir Arthur C. Pearson Club for Blinded Sailors and Soldiers, and Captain Baker has covered that as well as I could.

The DEPUTY CHAIRMAN: Has any one any further questions to ask Captain Baker?

Sir EUGENE Fiset: His case is very clear.

The DEPUTY CHAIRMAN: If there are no further questions we will adjourn now.

Mr. THORSON: Have we time to hear Mr. Lyons?

The DEPUTY CHAIRMAN: He has said Captain Baker has made it so clear he does not find it necessary to say anything. We shall ask the departmental officers to be present at the next meeting.

After a lengthy discussion it was decided to meet at eleven o'clock Friday, May 8.

Committee adjourned at 5.45 to meet on Friday, May 8, at 11 a.m.





















## MINUTES OF PROCEEDINGS

May 12, 1936.

11 a.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 o'clock, a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present: Messrs. Brooks, Emmerson, Fiset (Sir Eugène), Green, Isnor, Lapointe (*Matapedia-Matane*), Lennard, MacDonald (*Brantford City*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, and Streight—15.

Colonel C. B. Topp, Chief Pensions Advocate, was called, examined and retired.

Mr. Harry Bray, District Pensions Advocate, Toronto, and Inspector of the Veterans' Bureau, was called, examined and retired.

The committee adjourned at 12.50 o'clock, p.m. to meet again this day at 4 o'clock, p.m.

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TUESDAY, May 12, 1936.

4 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4 o'clock p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present: Messrs. Brooks, Emmerson, Fiset (Sir Eugène), Green, Hamilton, Isnor, Lapointe (*Matapedia-Matane*), Lennard, MacDonald (*Brantford City*), MacNeil, Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Streight, and Thorson—18.

Mr. Harry Bray was recalled, examined and retired.

Colonel C. B. Topp was recalled, examined and retired.

Mr. W. S. Woods, Chairman of the War Veterans Allowance Committee, was called, examined and retired.

It was decided to ask Justice Taylor, General McDonald and Dr. Kee to give evidence to-morrow.

The committee adjourned at 6.15 p.m. to meet again Wednesday, May 13, at 11 o'clock, a.m.

J. P. DOYLE,

*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

May 12, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman, presided.

The CHAIRMAN: We have with us this morning Colonel C. B. Topp, who is the Chief Pensions Advocate. He will address you on a memorandum addressed to myself (which I have not read yet), copies of which will be passed to you.

Colonel C. B. TOPP, Chief Pensions Advocate, called.

The CHAIRMAN: Proceed, Colonel Topp.

WITNESS: I should like to read this memorandum through and then subject myself to whatever questioning may be necessary thereafter.

The CHAIRMAN: All right.

WITNESS:

Helpful suggestions have been advanced in evidence so far heard by the committee respecting amendments to the Pension Act, but I think the actual problem which the committee is asked to solve has not been precisely defined. I suggest that it may be defined as follows:—

1. To ensure that all applications for pension, and particularly those by, or in respect of, members of the forces who served in a combatant capacity in an actual theatre of war, are given prompt, thorough and sympathetic attention.

2. To bring about substantial finality with respect to applications for pension, thereby making it possible to determine with some degree of accuracy the country's actual commitments under the Pension Act, thus enabling the Government to turn its attention to such other measures for the relief of former members of the forces as may be necessary owing to the advancing years of those who served and to the general economic situation.

3. To finally amend existing provisions of the Pension Act as may be deemed expedient, thus obviating the almost annual revision of past years.

To arrive at a solution of this problem a clear understanding of what is being done under the Act at the present time is essential. The amount of the annual pension bill and the numbers of pensioners are well known to the committee. It has not been brought out, however, that a large number of applications are being granted at the present time by the Canadian Pension Commission in Ottawa without formality, other than preparation, in the great majority of cases, by the Veterans' Bureau. Applications being granted are as follows:—

- |   |             |
|---|-------------|
| 1. Claims for entitlement in respect of injury or disease. . . . .  | 31 per cent |
| 2. Claims for entitlement in respect of death. . . . .  | 21 per cent |
| 3. Claims for retroactive pension, increased assessment, assessment of aggravation, clothing and helplessness allowance, date of application and effective date of pension. . . . . | 63 per cent |

The percentage of favourable decisions in the total of the three classes set out above is 38 per cent.



*By Sir Eugène Fiset:*

Q. That is 60 per cent of the number of applications received?—A. In that particular class, yes; 63 per cent of all applications of that type considered have been granted.

Q. And the same thing applies to the other percentages?—A. Yes, sir.

*By Mr. Mutch:*

Q. That is, favourable decisions on first applications to the commission?—

A. That is right, sir.

*By the Chairman:*

Q. That is what the Pension Commission does?—A. That is what the Canadian Pensions Commission is doing in the first instance.

*By Mr. Mulock:*

Q. Without it ever being referred to quorums or anybody else at all?—A. Without any judicial procedure at all. The application is made, and it is prepared, and then it is granted by the commission without any question, and with very little expense right here in Ottawa.

Q. Just while we are on that might I ask you this question: What percentage of that number would your department handle direct?

WITNESS: At least 90 per cent of all of these applications pass through the hands of the Veterans' Bureau; that is, the district Pension Advocates. I mention that a bit further on in my submission.

In order to illustrate the position over the most recent period for which figures are available, the foregoing percentages are based on operations during the fiscal year April 1, 1935 to March 31, 1936. It is to be noted, however, that a substantial number of applications have always been granted by the commission. During the fiscal year April 1, 1928 to March 31, 1929 the percentage of favourable decisions in entitlement applications was slightly more than 25 per cent.

During the 1930 session Parliament enacted extensive amendments to pension legislation then in force. Though its form has undergone some changes the principles incorporated in the legislation of 1930 are still in effect and have been of far-reaching benefit to ex-service men and their dependents. Thus, due to the provisions of the 1930 legislation the percentage of entitlement applications granted rose during the fiscal year 1931-32 to 40 per cent. In 1934-35 the percentage was 25.5 per cent, while as stated above, in 1935-36, 31 per cent of all disability claims were granted and 21 per cent of death claims. In addition, 17.3 per cent of applications referred by the commission for hearing locally before quorums are being granted. However, the point which is fundamental and which should be clearly recognized in the consideration of pension legislation, is that for years past the Pension Commission has been granting a substantial number of entitlement applications and that at the present time, 18 years after the war, favourable decisions are being given in rather more than one-third of all entitlement applications considered.

During the fiscal year 1934-35 the Canadian Pension Commission considered 13,146 entitlement applications in Ottawa. Of these, 3,359 were granted and 9,787 were not granted. It is a significant fact that more than 4,500, or nearly 50 per cent, of the applicants whose claims were not granted accepted the decision of the commission. The remainder requested a local hearing before a quorum of the commission.

[Col. C. B. Topp.]

*By Mr. Mutch:*

Q. Would you have any idea as to what percentage of that 4,500 who accepted them have tried again in the last four or five months?—A. I cannot give you any percentage, sir, but our understanding is that these cases are seldom heard of again.

Q. My thought was that perhaps the pensioner did the same as almost everybody else, any change in minister or any change in government brought a wholesale appeal?

Mr. MUTCH: It seemed to me a perfectly natural thing to try again under different circumstances. I am not suggesting that there is anything political in it. It is a natural occurrence.

WITNESS: No doubt, sir, a number of them have come back in the manner in which you speak. But the point I want to make is this, generally speaking about 50 per cent of all pension applicants are satisfied when they receive the decision of the commission in the first instance. And the reason for that in my judgment is that the application is prepared by the Veterans' Bureau usually, or by the Adjustment Officer, and the cases are explained to the men. Soldiers on the whole are reasonable people and they accept that explanation, admit that they cannot get ahead with their claim and that is the end of it.

Mr. BROOKS: I do not just understand these figures. You say 3,359 were granted, and 9,587 were not granted, and that there were 4,500 that were satisfied with the decisions given out of a total of 9,789.

*By the Chairman:*

Q. That would be nearly 50 per cent. Is that right?—A. That is right.

*By Mr. Brooks:*

Q. That does not include those that were granted?—A. That 4,500 does not include those that were granted, sir; 4,500 of those who did not get a pension.

WITNESS:

During the fiscal year 1935-36 the number of entitlement applications considered by the Commission in Ottawa was 9,140, of which 2,652 were granted and 6,488 not granted. The percentage of decisions accepted was about the same.

*By Mr. Reid:*

Q. I notice that in the year before they had over 13,000 and last year only 9,000, why the drop?—A. There was quite a drop in those years, Mr. Reid. Yes. I do not know what the reason is.

Of applications not granted it may be said, without reflection upon the sincerity of the applicants, that at least 50 per cent are quite obviously incapable of being established. It is this type of case, however, which in point of fact occupies more of the time of the judicial bodies than the potentially sound claim. It is submitted that attention should be directed to measures that will reduce the number of these cases requiring local hearing. The best way to do this is:—

1. To see that every case is thoroughly prepared before it is considered by the Commission in the first instance, and,
2. When the application is not granted to see that the applicant is fully informed of precisely how his claim stands in relation to the requirements of the statute with respect to entitlement before his case is submitted for local hearing.

*By Mr. Macdonald:*

Q. How do you propose to do that?—A. We have the suggestion, sir, designed to meet that situation.

*By Mr. Brooks:*

Q. That is, stating by whom the case is to be prepared.

WITNESS:

For many years perhaps the principal weakness in the administration of the Pension Act was absence of proper provision for preparation of the case in its earliest stages. This situation was met by the establishment in 1930 of the Veterans' Bureau. Since that time the Bureau has been the foundation of the judicial administration of the Act and has borne the brunt of administrative work with respect to receipt and disposal of pension claims.

There are 25 Pensions Advocates operating in 18 local offices, directed from a head office at Ottawa, where there are 5 advocates. Of these 30 advocates 16 are laymen and 14 are lawyers. Of the laymen all but 5 had years of experience in work under the Pension Act prior to their appointment as advocates. Of the lawyers 1 had previous experience. The advocates now on the staff have all had at least 5 years' experience—12 of them have had upwards of 14 years' experience. My advocates are a group of loyal, able and thoroughly efficient public servants whose work has had altogether too little recognition. To them is due in large measure not only the fact that many applications are granted but also the fact that in upwards of 50 per cent of the claims not granted the decision of the Commission is accepted and the expense of a local hearing thus avoided. The suggestion which appears several times in the record of evidence heard by the Committee that the advocates' work is chiefly concerned with presenting cases before quorums and the Appeal Court is absolutely contrary to the fact. Witnesses from the Commission will, I am sure, tell the Committee that at least 90 per cent of all entitlement applications are prepared by the Veterans' Bureau before initial consideration. In short, this is the most important part of our work.

*By Sir Eugène Fiset:*

Q. May I ask you there, in view of the fact that you say that your statement with regard to advocates applies to every province of the Dominion, does that apply in Quebec as well as it does in Ontario and western Canada?—A. That applies to every province in the Dominion, sir.

Q. It is a queer fact, but in Quebec it seems to be practically impossible for those veterans who are living in the lower part of the province, far from Quebec, to get a hearing with the advocate. They are unable to get their cases prepared and they haven't got the faintest idea as to how to approach the Veterans' Bureau.—A. About two or three months ago, sir, the advocate at Quebec was replaced.

The CHAIRMAN: He resigned.

WITNESS: And he was succeeded by a local man who had had some 7 or 8 years experience as an official soldiers' adviser; from 1923 to 1930; and the situation I am satisfied now is very much improved, and it is improving all the time.

Q. But you knew there was grounds for improvement?—A. There was room for improvement, decidedly, sir.

[Col. C. B. Topp.]



The CHAIRMAN: The explanation of that, if I might make it, is that in the person of the former advocate we had a very fine man, but he had a very large office and did not have very much time to attend to anything else. He had a large practice.

WITNESS: He was a part-time man, I might say, sir; and generally speaking it is hard to get part-time people to take very much interest in their work.

WITNESS:

As to the judicial organization under the Pension Act, it may be observed that at present, in effect, there are three judicial bodies—(1) The Commission, (2) Quorums of the Commission, (3) The Pension Appeal Court. It is suggested that two judicial bodies could effectively do the work now done by three.

*By Mr. Mutch:*

Q. Which one would you drop?

The CHAIRMAN: I do not think you should ask him for an opinion on what is really a question of government policy.

Mr. MUTCH: I did not expect an answer.

The CHAIRMAN: I will tell you this, Colonel Topp, you may answer him in your own way.

Mr. MUTCH: I have no desire to embarrass Colonel Topp.

The CHAIRMAN: Colonel Topp was a member of the old federal appeal court, and I think that he still thinks it is better than what we have now. That was abolished mainly through the efforts of the present minister; so, don't put him in a hole. Go ahead and tell them what you think, Colonel Topp.

WITNESS: In connection with that judicial organization, gentlemen, it seems to me that we should make it as simple and direct as we possibly can. Moreover, the principle of an independent appellate tribunal is one which I think ought not to be lightly set aside. The weakness of the present appellate system in my opinion is that it almost never sees the soldier. I would be inclined to leave the matter of applications in the first instance to the Pension Commission in Ottawa, with provision for complete preparation and so on as we have suggested, then to have an entirely independent appellate body which would travel, which would see the men, which would have absolute finality of decision, and would so far as humanly possible give its decision at once in the presence of the man. The reason I say that is that a good many of these appeals have already gone through the mill; they have been sifted and sifted and considered over and over again, and there is not very much to them as a rule, and a large percentage of them are incapable of being established. Now, in a quorum, or court, or whatever you like to call it, which hears that man, hears his witnesses, treats him sympathetically and gives him a first class hearing, if that court then says judgment is reserved, knowing all the time that it cannot allow that application, the man goes away with the impression that he has got a pretty good chance; and then weeks or months afterwards along comes an unfavourable decision and we have another case of discontent, writing to his member, writing to the minister and generally creating a disturbance. We think that situation would be very much improved if the man was told and told frankly, and given a reasoned judgment, which could be dictated in his presence usually if the personnel were thoroughly experienced; and I am quite satisfied it would very materially improve the present situation in so far as complaints are concerned.

*By Sir Eugène Fiset:*

Q. Then, to come down to brass tacks, you would suggest that the present quorum be abolished and that quorums be formed from the appeal court?

The CHAIRMAN: Colonel Topp is not talking personally. Perhaps a little general explanation might be useful. Members of the committee possibly do not remember the federal appeal court. In my judgment the thing that was wrong with the federal appeal court was that it made things go upside down. In our ordinary course a man gets a hearing before the court and then goes to appeal. Here the man gets the hearing before somebody he never sees and then we send an appeal court out to see him. It is a reversal of the ordinary legal procedure and my legal mind could not stand for it so I suggested its abolition. Colonel Topp wants us to go back to the special appeal court. There were 7 or 8 on it. They travelled from coast to coast. They heard the men and so far as possible gave immediate decisions, if only to tell the man in his presence that he didn't have a chance.

*By Sir Eugène Fiset:*

Q. You have a commission quorum and an appeal court. These will disappear and the appeal court will be reconstituted, and they will form quorums to hear cases. That is what it would be?—A. I perhaps should make it clear, sir, that the suggestion I made with regard to the judicial end of the procedure is a purely personal one. It is my personal opinion. It does not affect the suggestions that we intend to place before the committee. The reason for my opinion on that subject is that the Imperial authorities followed it right along, in fact, it is the only system they have had. They had independent appellate tribunals set up under the Lord Chancellor, then in this country Colonel Ralston conducted the royal commission about 1922, and he recommended that system here and the federal appeal court was appointed; which functioned I think reasonably successfully within the limits of its jurisdiction from 1923 to 1930.

WITNESS:

Mr. Harry Bray, District Pensions Advocate in Toronto and Traveling Inspector of the Veterans' Bureau, will submit to the Chairman a concrete plan by means of which we are confident that effective and thoroughly satisfactory disposal can be made of all applications, while at the same time achieving substantial finality and very considerably reducing present administrative expenditure.

*By Mr. Reid:*

Q. You make the statement that 90 per cent of all applications are prepared by the Veterans' Bureau; is that 90 per cent of all the applications that go before the Canadian Pension Commission in the first instance?—A. That is 90 per cent of entitlement applications. We have nothing to do, necessarily, with assessment and matters of that sort; but where a man is making application for a pension.

The CHAIRMAN: They do not look after children, or anything like that.

WITNESS: No, we have nothing to do with that, no.

The CHAIRMAN: But, in the case of the 63 per cent granted, none of that comes through you at all?

WITNESS: No, that is a purely routine matter.

*By Mr. Reid:*

Q. Do branches of the Canadian Legion prepare cases and send them up?—A. They do, but my impression is that the Canadian Legion and the outside adjustment bureaux in most cases get the application after it has at least had one decision by the commission. A man will go through whatever the ordinary channels are and then he gets an adverse decision, we will say, and he then consults an adjustment officer.

[Col. C. B. Topp.]

Mr. MUTCH: A good many of their cases are for assessment.

The CHAIRMAN: Yes, and they get more difficult cases than would come in the first instance as a rule.

WITNESS: I think it is fair to say that they get many difficult cases.

*By Mr. Reid:*

Q. Well, then, there might well be many cases brought by themselves so to speak to the first court and after having it decided against them they might appeal to the Pension Advocate—A. I have not the slightest objection to their being there. They are doing good work, excellent. Perhaps I might add to that when I say 90 per cent of entitlement applications, that is absolutely correct; but I should add that the Pensions Advocates all through the country are recognized as the soldier's friend, and their services are enlisted in respect of every conceivable type of complaint, and we are able to do a great deal of useful work on matters of assessment, retroactive adjustments and so on. But, our main consideration, and our statutory duty, has to do with matters of entitlement.

Q. Let me ask you this question: In view of the fact that practically all the advocates are laymen, do you find that they are handicapped to a certain extent in the presentation of cases which after all are decided largely on the medical evidence. Do you think they are handicapped by not having direct medical evidence to substantiate their claim before the court?—A. Certainly not, sir. We are not handicapped at all. I think I am quite safe in saying that no pension case submitted to us has suffered an injustice there through any medical handicap. By that I mean that we have managed by hook or crook to get the medical evidence we wanted where we needed it. As a rule we can get what we require through the departmental medical consultants. I think it should be recognized, sir, that generally speaking perhaps the best medical brains in the country are included among the consulting staff, and the permanent medical staff of the department from one end of the country to the other. It has been for years. The outstanding medical men in each community have been retained, not necessarily on a salary basis, but that departmental advice is available to us, and is most valuable. At times we have had difficulty in perhaps getting a man examined where we thought an examination would be helpful, or something of that sort; but we have been able through the assistance of the canteen fund, through assistance from private individuals, and from the Army and Navy Veterans' Association—they have helped us out on a number of occasions where we needed that kind of assistance. But, the number of occasions upon which we are actually in difficulties through inability to get independent medical advice is small.

*By the Chairman:*

Q. Tell us about the Army and Navy. What did the Army and Navy do for you?—A. I get a case, sir, on which perhaps the pension appeal court has given a decision and we have reason to believe that it ought to be reopened. To get it reopened I must have medical opinion from an outstanding consultant. It is perhaps pretty difficult to go to a departmental medical officer and ask him to say that in his opinion this judgment of the pension appeal court is wrong. And I have on occasion, in that set of circumstances, simply telephoned over to Captain Gilman at the adjustment office and said, I have a case here on which I would like so and so's opinion but I haven't any money to pay out, will you help me out? He says, certainly, by all means; and he does it.

The CHAIRMAN: And he foots the bill?

WITNESS: Such cases are very few. I mean, they asked me to do that in less than a dozen cases in the last year.



Mr. MUTCH: There is no particular reason why that particular organization should be Santa Claus.

*By Mr. Reid:*

Q. One more question, before you go on: What is your opinion with regard to the work of the advocates? What I have in mind is that in some cases the advocates have too many cases to deal with with the result that they have not sufficient time properly to prepare the case due to rush of work?—A. I think possibly that might have been said concerning the Toronto office a little while ago. The Toronto office has been simply inundated with applications. However, that situation has been corrected within the last two or three months and the situation in Toronto to-day is better than it ever has been.

*By Mr. Mulock:*

Q. Under the present procedure does the nature of a man's service count in determining a man's entitlement?—A. Yes, it does, sir, decidedly. The man who had service in Canada or in England, in places not a theatre of war, generally speaking has a better chance of establishing his claim than a man who had service in the front line; the reason for that being that he has a complete documentation, whereas the front line man was carrying on, fighting the enemy, and he was being kept in the battalion transport lines where documentation does not exist to the same extent. I perhaps ought to qualify that by this statement, that the judicial bodies without exception will give a much more sympathetic hearing to the man who has a good record of service as a fighting man than they will to the man who has some other type of service. But altogether too often we are faced with a complete absence of record and a gap between service and the date of definite diagnosis of the trouble which is difficult to overcome.

Q. What seems to you to be the main complaint to-day?—A. I would think, delay, sir; and with that lack of finality. These cases keep dragging on and on and on, indefinitely, when in so many instances we all know that a case cannot be established, and yet it is difficult to bring them to any real finality.

*By Mr. Brooks:*

Q. You try to establish a case almost entirely on documentary evidence; that is, you quote the man who served in England and Canada who has good documentary evidence, it is easy for him to get a pension, easier than in the case of a man who served in France. You have to have documentary evidence to decide your case, and the man with front line service very often has no documentary evidence on which to base his case; that is, the less good a man was in the army the easier it is for him to get a pension?

The CHAIRMAN: The easier it is for him to establish his case. General Fiset will tell you that. He was Deputy Minister then. Documentation here in Canada or in England would necessarily be easier than documentation in the field. No matter how good a medical officer was he could not be expected to keep documents all the time; there is no question about that, it is the absolutely established fact. The only thing that offsets that is what Colonel Topp says, that possibly there has to be a more sympathetic hearing given to the man who was in a front line unit.

WITNESS: There is no question about that. We get a better hearing when a man has good service; but, if the evidence simply is not there it is that much more difficult to make a case.

*By Mr. Mutch:*

Q. To what extent do you suffer in your applications from your judicial bodies overriding medical evidence and medical opinion?—A. That is a rather

[Col. C. B. Topp.]

difficult question to answer, sir. We feel very strongly on that subject, because we feel that the Pension Appeal Court particularly does not undertake to interpret expert medical testimony to an extent that anyone other than a qualified medical practitioner is competent to do.

*By Mr. Mulock:*

Q. Do you find that outside doctors are more sympathetic in their views or written opinions?—A. That too is a difficult question to answer, sir. My reply would be "No"; with a qualification. If you are speaking of the outside general practitioner, the doctor who is looking after his small community where he knows all the families and has brought all the children into the world and so on, I would say yes he is decidedly more sympathetic to the soldiers; that is to say, that it is pretty difficult to get him to say anything other than that the man's disability is attributable to service. But the departmental doctors, bearing in mind that the departmental consulting staff particularly are simply employed on a schedule of fees or on a part-time basis are very eminent men.

The CHAIRMAN: Just there, what type of men would you have in Toronto or Montreal for instance?

WITNESS: Speaking generally I think it is safe for me to say that they include members of the profession generally at the top of the particular section in which they specialize. These are the type of men who are at the call of the department.

*By Mr. Mutch:*

Q. I do not think that question by Mr. Mulock referred particularly to specialists. I do not think it is the general practice to get outside medical evidence from the family doctor, is it? Generally speaking a man who is attempting to establish something would call in a specialist of some other sort probably, a man not particularly well known to him personally?—A. I can answer that definitely by saying that the departmental consultants, men of the type just referred to, are in my opinion more sympathetic than the outside doctors; and moreover, you see they are familiar with the work, they are doing it all the time, they know what the requirements are, and their opinions and their evidence generally speaking is invaluable to us.

*By Mr. Mulock:*

Q. Have you got the benefit—and I want to get this clear, and I think some other members of the committee do also—when you are preparing a case for an applicant what assistance can you get from the departmental doctors? I am not talking about these consultants, I mean the departmental doctors. Can you obtain, for instance, a written opinion as to a man's condition so that you can prepare your case on that written opinion? Is that available to you before it appears in a quorum?—A. No, sir, it is not; and there you have put your finger on what is a weakness in the present situation in a medical sense. We can go to the departmental staff and discuss a case as much as we like with them and get their assistance probably in completing the preparation, but we cannot get any written opinion from them until the case is in a position where we can summon them to appear before a quorum.

Q. Why not?

The CHAIRMAN: That is part of that squabble that is on between the pension doctors and departmental doctors. I think this committee can see that. If one government doctor gives an opinion and another government doctor gives an opposite opinion a difficult situation develops.

Mr. MULOCK: Well, is there a department regulation, or is there something in the Act?

The CHAIRMAN: I think it is a departmental regulation that a doctor may not give any opinion in writing on a case, but he can be called before a quorum as a witness and questioned.

Mr. Mutch: Isn't the position from the standpoint of the man then simply this, that the most eminent medical talent in the country has been retained on the side of the defence, if you like, and the applicant has nobody left but the general practitioner, who is discredited to begin with on the ground that he is sympathetic.

The CHAIRMAN: The board will tell you to go and call in these men in Toronto and consult them. Their opinion is paid for by the department.

Mr. Macdonald: It is only the departmental doctors the men call.

The CHAIRMAN: He can't have their written opinion on a file which afterwards would be contradicted by another man in the same department.

*By Mr. Macdonald:*

Q. But they can get the written opinion of these specialists in Toronto and Montreal, which you mentioned?—A. The crux of the matter is this, sir, that some years ago there was a dual organization within the department; that is, we had two medical staffs, one deciding upon questions of entitlement to treatment, and one deciding on entitlement to pensions. A situation, just as the minister has pointed out arose whereby one branch of the government medical service was admitting entitlement to treatment and the other one refusing it. So, these staffs were amalgamated in effect and provision was made whereby there would be one decision on entitlement only and that decision would be given by the Pension Commission. At the same time it was laid down that no treatment doctor would express an opinion on the service relationship of the disease, except on direct request from the commission.

*By the Chairman:*

Q. He would tell you what was wrong with a man but he would not say it was attributable to service, because that was not his job; that was the duty of the Pensions Commission, do you see?—A. So to-day the only way that we can get that very valuable opinion from the departmental staff in writing is by summoning that doctor to appear before a quorum of the commission. So, I am satisfied that a great many cases go to quorums of the commission which would never have gotten by the commission itself if we had had that provision, to get the medical end of the case completed right at the start.

*By Mr. Mulock:*

Q. You mean, you could clean up a lot of these cases without the necessity of a man having to appear before a quorum?—A. I am satisfied that we could, sir.

*By Mr. Macdonald:*

Q. Your records will show that?—A. I do not think there would be any record of that. The decisions of the quorums show that, of course.

*By Mr. Quelch:*

Q. Would the actual circumstances of the case be taken into consideration by the quorum in arriving at a decision, or would they take into consideration the cost involved?—A. I cannot express any opinion on that.

The CHAIRMAN: You better ask the judges who come before us that, don't you think that will be the best way?

[Col. C. B. Topp.]



Mr. QUELCH: I was just asking Colonel Topp for his own opinion in the matter. How does he feel? It has been stated here that if a man had a claim for six years back pension he would have a far better chance of getting it if he would sign a quit claim, so to speak, on that back pay.

WITNESS: I question whether I can give any useful opinion. I do not know, Mr. Quelch. I can say this, that I have heard remarks in the court, remarked from the bench, that there is a large sum of money involved in this case. But I am not prepared to say that any such consideration influences the court in its decision. If it did one could only say that a court was not living up to its oath of office.

Mr. MACDONALD: It would be a terrible condemnation of the court.

*By Mr. Macdonald:*

Q. Going back to the work of the advocates, do the advocates see each applicant before a hearing?—A. Yes.

Q. Do they go to the town a few days before a hearing and interview the applicants, or what is the procedure?—A. So far as it is possible to do so—take the Province of British Columbia as an example. A quorum went out there to begin a session on the 27th of April. During the first week in April the advocate left Vancouver and covered the ground over which that quorum would travel in the interior of the province and saw each applicant. That system is carried out as far as we can do it, but in most cases the preliminary work is carried out by correspondence. Then the applicant is seen by the advocate, perhaps the day before the hearing when he is brought into the centre where the case is to be heard, and the record is gone over and any additions made to it that are necessary.

Q. And, is the applicant advised by correspondence what witnesses he should have?—A. Oh, yes, always. As a matter of fact the bulk of the preparation has to be done by correspondence even though the man is living right in the same town, because medical evidence has to be written out and so on.

Q. Have you had any complaints that the advocates would rush into a town and rush into court without having properly prepared a case?—A. I can't ever remember having had such a complaint, sir. No. I do not mean to infer that I have never had a complaint about advocates, but I do not think I have ever had complaints such as you are speaking of now.

*By Mr. Brooks:*

Q. These eminent consultants that you speak of, do they see the man personally; that is, they don't base a decision on the documents or cases that are sent to them by you, do they always see the man?—A. They always see the man, sir.

Q. I am thinking about the man away back in the country where there are no eminent consultants. It is all very well for Toronto and Montreal, but I can't think of country districts where they would not be in touch with these men, where they could not be reached as readily as would be the case of a man in Montreal or Toronto?—A. The expert opinion, sir, is just as available to the man living in the back woods as it is to the man living right in the large centre.

Q. How does he get in touch?—A. If it is necessary to examine a man in order to get that expert opinion the man is brought in and is examined. As a rule the expert opinion is given after a careful examination of the complete record of the case; that is, all the hospitalization he has had, and so on.

Q. Are his expenses paid; that is, if he has to go—I am speaking about New Brunswick now—

The CHAIRMAN: You mean, in the case of a man coming down from Edmundston to Saint John.

Mr. BROOKS: Yes. Would his expenses be paid from Edmundston, we will say, to the city of Saint John? How would he get there?

WITNESS: Oh, yes. That is statutory. Provision is made for that.

The CHAIRMAN: The expenses of the applicant to go down to his hearing are all paid.

Mr. ISNOR: There are 30 advocates. Are they all on full pay?

The CHAIRMAN: No.

*By Mr. Isnor:*

Q. How many are on full pay, and how many on part-time?—A. There are 6 advocates on part-time.

Q. And, 24 are on full time?—A. Yes.

Sir EUGÈNE Fiset: Are these men appointed by the Civil Service Commission on the recommendation of the department?

The CHAIRMAN: Originally they were, but under the 1935 legislation they were put under the Civil Service Commission. Prior to that they were government appointees.

Mr. MULOCK: We notice that Colonel Topp says that everybody is satisfactory, but what provision is there under the regulations for getting rid of a pensions advocate if he is not satisfactory?

The CHAIRMAN: There is none, except the ordinary provision, "for cause."

*By Mr. Mulock:*

Q. I just want to get this clear; the minister, or yourself as Chief Pensions Advocate, have no control over the appointment of that staff?—A. That is not so, sir.

Q. You have no choice in their appointment, or in determining their efficiency?—A. Within the group of persons certified to be eligible it is entirely up to the Civil Service Commission to select who shall get the job. But, if a man is not carrying on to my satisfaction as Chief Pensions Advocate I immediately so recommend to the minister or to the deputy minister, and in some cases as I have made such recommendations they have been acted upon.

I do not want the committee to be left with the impression that we have on our staff particularly at the present time anyone who is not doing his work, because that is not so. And if at any time an advocate is inefficient, not doing the work which I think he ought to do, there is nothing whatever to prevent that man's removal; but, "cause" must be shown. A man may not be brilliant, and one sometimes feels that one would like to be able to replace him, but he is the man who received the appointment.

*By Mr. Streight:*

Q. How many advocates have you in Toronto?—A. 3.

*By Mr. MacDonald:*

Q. Are they full time?—A. Yes.

*By Mr. Mulock:*

Q. I just want to ask Colonel Topp one question: There have been some suggestions made here about one organization, and I would like to ask him about that. Do you think advocates would function more effectively and more efficiently if the scheme which has been advocated here were put into effect; that is, if the Veterans' Bureau were placed outside of departmental administration

[Col. C. B. Topp.]

and under an independent commission?—A. I would not have the slightest objection in the world to the bureau being placed under an outside commission, but I cannot see what value there would be in it.

Q. In other words, you do not think it would help the claimants?—A. I cannot see how it would help them one bit more than they are being helped now. These men are all giving good service. They could not do any more under an outside commission than they are doing as departmental officers.

*By Mr. Mutch:*

Q. There is a proposal in bill 26, Colonel Topp, for section 52 to be repealed and re-enacted, and we have had witnesses here who suggested that by doing that we would not be gaining anything, that it should be left the way it was formerly. I do not know whether you have the section in front of you there or not, but I made a marginal note here to ask your opinion about it. We have had representations that it should not be touched. I wonder if you would give us an idea as to what the effect of the change would be?—A. This section, sir, is one concerning which we have a suggestion to make, which Mr. Bray will go into in detail. We do not like it the way it is worded at present. We have a suggestion which we think would improve it considerably.

The CHAIRMAN: If the committee are ready we will hear Mr. Bray.

HARRY BRAY, District Pensions Advocate, Toronto, called:—

*By the Chairman:*

Q. Mr. Bray, what is your experience in this? How long have you been an advocate?—A. I have been in this work ever since I returned from overseas service.

Q. And when was that?—A. In 1919.

Q. And what as?—A. Preparing and presenting claims to pension arising out of war service.

Q. In what departments?—A. With the Soldiers' Aid Commission of Ontario at the time of the Farmer government, I entered the service. I entered the Dominion service following the 1930 amendments, and consequent upon your committee's findings.

Q. So that, from 1919 to 1930 you were in the service of the government of Ontario?—A. Correct.

Q. And from 1930 until now you have been in the service of the federal government?—A. Yes, sir.

Q. And you have always been on the same work, preparing cases for soldiers?—A. Yes, sir.

Mr. ISNOR: Does the witness mean persons in Ontario who served overseas?

*By the Chairman:*

Q. Explain the Soldiers' Aid Commission, Mr. Bray?—A. The Soldiers' Aid Commission of Ontario was brought into being while we were overseas, I understand, primarily to take care of orphaned children. And the work developed, they gave relief and they prepared and presented pension claims. In 1923 following the Ralston Commission findings they set up what was known as a claims branch, of which I was given charge. That branch specialized and did a great deal of work I may say in the preparation and presentation of pension claims.

Q. Even before there were any advocates employed by the federal government, the government of Ontario employed you to present claims to the Pension Commission. Is that right?—A. With the staff almost the same as we have in the Bureau office in Toronto to-day.



Q. And you carried on with that under the Ontario government until you joined the newly created Veterans' Bureau?—A. It was felt that with the creation of the Veterans' Bureau there would be duplication of effort and the commission then abandoned the claims branch, and the staff was absorbed in the Veterans' Bureau in the Toronto office.

*By Mr. Isnor:*

Q. Which department did you work under?—A. We came under the Provincial Treasurer's Branch originally and latterly under the Attorney-General's Branch.

The CHAIRMAN: Proceed, Mr. Bray.

WITNESS: With your permission, and if it is the wish of the committee, I should like to read this comparatively short statement, Mr. Chairman, and then perhaps we can go into it in detail. If that is agreeable.

The CHAIRMAN: Is it agreed that we will let Mr. Bray read his statement through and then ask questions?

Some hon. MEMBERS: Agreed.

WITNESS:

Writing to Major C. G. Power, M.C., Chairman Special Committee, on Pension and Returned Soldier Problems, Ottawa, on March 17, 1928, in reply to a request from the Clerk of the Committee for a statement, I stated in part—"To my mind the major cause for complaint among ex-soldiers and their dependants to-day is rather by reason of the fact that their case has not been properly prepared and presented, than through any lack of consideration on the part of either the Board of Pension Commissioners or the Federal Appeal Board.

Preparation is still the paramount factor in the satisfactory disposition of pension claims.

With the setting up of the Veterans' Bureau, it was no doubt hoped, through the work of Pensions Advocates in districts throughout Canada, the situation regarding preparation would be well taken care of. Unfortunately, there still appears to be some complaint. Such complaint, however, emanates mainly from those whose claims cannot succeed, even after the most exhaustive preparation. To offset this, we have proposals which should not only be satisfactory and helpful to the applicant with a genuine claim, but also expedite the movement of claims, help in adjudication, and bring about finality. To give effect to our proposals it will be necessary to amend the present procedure, and if necessary the Pension Act, to insure that:—

The preparation in all cases is checked by the Veterans' Bureau before the case is ruled on in the first instance by the Canadian Pension Commission.

Whenever any application for pension is not granted, the Commission shall promptly notify the applicant in writing of its decision, stating fully the grounds therefor; and shall inform such applicant that he may, within the period of sixty days after the date of such notification, renew his application to the Commission with additional evidence (now get this), for final ruling by the Commission in Ottawa; in all cases where the applicant signifies his intention of continuing with his claim, the Veterans' Bureau shall furnish him with a complete precis of all evidence relating to pension claim in his Departmental file; at the same time the applicant shall be asked to signify whether the evidence set out in the precis covers all claim to pension which he desires to make, following which the Veterans' Bureau shall give such further assistance as may be necessary

[Mr. Harry Bray.]

in cases where either further evidence is available or new conditions are being claimed for, and the case shall then be submitted to the Commission for final ruling in Ottawa.

It was at first thought we might send precis of case following preparation, to all applicants prior to initial ruling by the Commission. We find, however, that requests are now made for Quorum hearings in only about 50 per cent of the cases, and by briefing only those cases where the applicant indicates a desire to continue, a great deal of time and expense might be saved; although, personally I can still see a good deal of merit in supplying all applicants with a precis of their claim.

*By Sir Eugene Fiset:*

Q. That is the precis to be submitted to the applicant by the Veterans' Bureau?—A. Yes, sir.

The importance, psychologically and otherwise, of supplying the applicant with a complete precis of his case, including service record as well as all other relevant evidence, cannot be over-estimated. The precis will speak for itself regarding the merit of the claim. The Pensions Advocate will not only forward a covering letter to the applicant with the precis, advising as to further procedure, and where indicated, carefully explaining weaknesses in the claim which might be corrected, but will also attach, for the applicant's signature, a form reading somewhat as follows:—"I have read the precis of evidence forwarded to me by the Veterans' Bureau covering my claim to pension. This is complete and contains all the evidence I am able to submit for any claim to pension, excepting the following—(blank space to allow for applicant's comment)."

To obviate the possibility of claims remaining undisposed of indefinitely, it will be necessary to again impose a time limit whereby this procedure must be completed, and we suggest a further sixty days.

To overcome the difficulty regarding lack of proper diagnosis and medical opinion, we suggest regulations be laid down by the Director of Medical Services and the Chairman of the Canadian Pension Commission, whereby the Chief Medical Officer in each district be empowered, after consultation with the District Pensions Medical Examiner and the District Pensions Advocate, to examine applicants in Departmental clinics and hospitals for check in diagnosis and expression of opinion as to etiology,—

*By Mr. Reid:*

Q. What does that mean?—A. That is the crux, of course, of all pension work. But for an explanation: In cases other than gunshot wound, they turn on the case of relationship. For instance, a man may have a gunshot wound that sets up an abscess in the lung, and you want an expression of opinion as to the etiological connection between the gunshot wound and the abscess. Is that clear?

MR. REID: I wanted to be able to follow you.

MR. MACDONALD: We understand now, I think.

WITNESS:

origin, etc., where indicated (it being of course distinctly understood that Departmental Doctors cannot usurp the function of the Commission by expressing opinions as to service origin or relationship). Such expressions of medical opinion, to be effective, must be placed in the record *before the Commission gives final decision*; in fact, such procedure ought to be completed before the Veterans' Bureau precis the case.

Such procedure will not only result in more efficient and satisfactory adjudication, but will leave the case, following final Commission ruling in Ottawa, ready for immediate appeal hearing, if necessary.

A great deal of objection and dissatisfaction would be eliminated if the members who hear the case in the district could dictate their decision (where possible) in the presence of the applicant and his representative. (Col. Topp already touched on that.)

The district appeal hearing should be final, except that the Commission should be empowered, where cases are closed either following appeal hearing or by statutory time limit, to grant a reopening where in the opinion of the Commission the circumstances justify such action. *We suggest procedure similar to that under which the British Ministry of Pensions adjudicate in "out of time" claims.*

The impression that the Veterans' Bureau has confined itself to preparation and presentation of cases to the Tribunal and Quorums in the field is incorrect. For instance, over the period from October 1, 1934, to September 30, 1935, the Toronto office of the Bureau prepared and presented to the Canadian Pension Commission in Ottawa, for initial ruling, 2,161 cases, of which 1,690 were not granted, and 471 were granted. Over the same period this office presented to the Canadian Pension Commission Quorum in the Toronto district, 1,169 cases. All initial entitlement claims arising in the Toronto district pass through the Veterans' Bureau before initial ruling is rendered by the Commission in Ottawa. Although we have, in the main, confined ourselves to preparation and presentation of pension claims, the Bureau in Toronto district is a buffer between the applicant, and not only the Pension Commission, but practically every other department.

Our interview book covering the period of the last fiscal year shows that no less than 6,162 applicants were interviewed. It is safe to say half as many again, of which there is no record, were interviewed.

By careful preparation and frank discussion with applicants, many hundreds of cases have been eliminated from the rolls, by the Canadian Pension Commission granting the case immediately following first submission, or voluntary withdrawal of the claim by the applicant. I think the latest figures in the Pension Commission Head Office will show that only in about 50 per cent of the cases which go to the Commission for initial ruling are requests made for Quorum hearings.

Should the members of the Committee be interested in the work done by a district office of the Veterans' Bureau, I have brought along sample precis, taken at random from files, also statement showing procedure necessary to now bring cases to finality.

Following is a summary of the records of the Toronto District Veterans' Bureau office, covering straight entitlement claims over the period of the last fiscal year, namely, April 1, 1935, to March 31, 1936, with disposition thereof:—

SUMMARY (LAST FISCAL YEAR)		Granted Not Granted	
Canadian Pension Commission decisions . . . .	1,677	431	1,246
Quorum reference requested . . . . .	541	...	...
Quorum reference granted . . . . .	578	...	...
Quorum decisions . . . . .	1,012	247	765
Pension appeal court referred . . . . .	335	...	...
Pension appeal court decisions . . . . .	384	53	351
	4,527	731	2,362

MR. MUTCH: That is higher than the average, isn't it?

WITNESS: I do not know anything about the average. I should like to start on the first page starting with, "the preparation in all cases is checked by

[Mr. Harry Bray.]



the Veterans' Bureau." The reason for that suggestion is obvious. We aim at finality, and if the Bureau was to precis the cases in any event it does not matter what stage they start. The Bureau should see that case as soon as possible, and attempt to bridge in the gaps and advise the applicant where his case is weak.

*By the Chairman:*

Q. Tell us what you mean by precis. What would you put on it?—A. You put the service record first, which includes any service medical records; and you cover particularly all the medical evidence that may be relevant to the claim, medical and industrial evidence, for the post-discharge period. I have some samples of precis here.

Q. Give us one. You might read one.—A. They are rather lengthy.

The CHAIRMAN: Give us a sample and we can hand them around.

WITNESS: The gentleman who asked the question about etiology might be interested in that particular case. (Indicating precis).

*By the Chairman:*

Q. You would send a thing that long out to a man?—A. Yes.

The CHAIRMAN: I do not think he would ever read it.

*By Sir Eugene Fiset:*

Q. In other words, your precis, practically speaking, is the medical history of the case?—A. Yes.

Q. What you propose now is that the application should go direct to the Veterans' Bureau first; there all the evidence should be brought together and a precis of the evidence prepared; then that precis is passed on to the applicant with suggestions as to how to complete it, if necessary; and when all this has been done it is returned to the Veterans' Bureau, and then if the Veterans' Bureau think fit to advise the applicant to apply for pension they will pass it on to the Board of Pension Commissioners, and it will be heard in the regular way. That is what you mean, isn't it?—A. Yes, sir.

Q. At the present time that is not the procedure followed. The application goes to the Veterans' Bureau. The Veterans' Bureau prepare the case for immediate hearing by the Board of Pension Commissioners and the Veterans' Bureau is advised as to what has been done on the case. What they want to do now is to reverse that procedure; first have it prepared by the advocate, even have it sent to the applicant to make sure that it is complete to their satisfaction, before return to the Bureau. Is that right?—A. Yes.

The CHAIRMAN: They want him to put everything he has got to say on his file before it is presented to the bureau for forwarding to the commission. At the present time you have to do that for a quorum, but you do not need to do it when you first go to the commission.

WITNESS: We want to stop these repeats that go on ad infinitum. We want to get a man's case absolutely complete before it ever goes to the commission, and we want to get him to say so, in writing, that it is complete.

SIR EUGENE FISET: Suppose we agree to your proposal and accept your recommendation that the precis be prepared by the Veterans' Bureau, what would be the channel of communication to be followed, from the Veterans' Bureau to the district advocates.

The CHAIRMAN: The Veterans' Bureau will work through the district advocate, naturally. If it is a Toronto case I suppose Mr. Bray would handle it.

*By Sir Eugene Fiset:*

Q. That is quite easy when you are in town where you can deal with an advocate, but when you live in an outside district there must be some channel of communication to be followed; will it be through the district advocate?—A. Yes.

Q. Then the district advocate will proceed with the preparation of the case on the basis of the document sent to him by the Veterans' Bureau. When he has prepared the case and it is complete he will send it back to the Veterans' Bureau and they will decide whether they think there is something in the application, and if they think there is nothing in it they will return it?—A. No. The Veterans' Bureau will not decide. That is the function of the Pension Commission.

Q. "Decide" is perhaps the wrong word; they will advise the applicant?—

A. Yes, if his case is not well founded we will so advise him.

Q. Then, the applicant knows from that that it is not desirable to go before the commission?—A. We would hardly dare to go that far.

Q. How far would you go?—A. We would tell him diplomatically that he has a weak case, but that it is his statutory right to go on.

Q. If he still insists that it should go before the commission he will return his documents to the Veterans' Bureau and the Veterans' Bureau will be the channel of communication through which to approach the commission?—A. Right.

*By Mr. Macdonald:*

Q. It goes to the commission and the commission turns it down, what is the next step?—A. He has one more chance, if you adopt this proposal. He can say whether or not he wants to go on.

*By the Chairman:*

Q. You have the right to tell him that he needs further evidence, or something, don't you?—A. No, the commission decision would go to him direct.

Q. Oh!—A. In a letter. He will be told that he has one more opportunity to get a further ruling from the commission. He has 60 days in which to make his mind up, or he may go to the appeal court, or whatever you call that body, without going back to the commission. If the case has been properly prepared in the first instance 99 per cent of the cases will go direct to appeal after the commission sees them.

*By Mr. Macdonald:*

Q. What will that court consist of, in your opinion?—A. That is for the committee to decide.

Mr. Mutch: You are limited to the quorum?

*By the Chairman:*

Q. Are you necessarily limited to the quorum?—A. If you take this document literally we are limited to a quorum of whatever constitutes the appeal body.

Q. But that is not necessarily a part of your scheme?—A. No. This scheme will work if you leave the present judicial machinery alone.

*By Mr. Mutch:*

Q. Will it work under this proposed amendment in bill 26?—A. It will. You raised the point, sir, about section 52. You will notice from the words, "whenever any application for pension is not granted," on the first page; to,

[Mr. Harry Bray.]

"and the case shall then be submitted to the commission for final ruling in Ottawa," on the second page, is the substitution for section 52 as it is now in the draft bill.

Sir EUGENE Fiset: I suggest we should adjourn, sir. You have to go, and I think it is very important that you should be here, and we will have further questions to ask.

The CHAIRMAN: We will adjourn until this afternoon until 4 o'clock, when we will meet, subject to return to the House in the event that a vote is called.

The committee adjourned at 12.50 o'clock p.m., to meet again this day at 4 o'clock p.m.

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### AFTERNOON SITTING

The committee resumed at 4 o'clock p.m.

Hon. Mr. Power presided.

Mr. HARRY BRAY recalled.

The CHAIRMAN: Proceed.

WITNESS: We were discussing the suggestion this morning which commenced on page 1 of my statement:—

Whenever any application for pension is not granted, the commission shall promptly notify the applicant in writing of its decision, stating fully the grounds therefor; and shall inform such applicant that he may, within the period of 60 days after the date of such notification, renew his application to the commission with additional evidence for final ruling by the commission at Ottawa...

This is a deviation from the present procedure in this manner that presently the applicant is allowed 90 days in which to notify the commission that he desires to renew his application, and he may take as long as he likes after that notification has been filed with the commission, in which to take action. We propose that he be allowed 60 days to make up his mind as to whether he wants to go on or not.

*By the Chairman:*

Q. Why 60 days instead of 90 days?—A. Because he gets a further 60 days later on. Altogether he gets, approximately, four months to complete his case with the commission; and experience has taught us that 60 days is ample time in which to determine whether or not the applicant has any further claim.

*By Mr. Brooks:*

Q. There would be some exceptions; that is where they have to look all over the continent for evidence. Possibly they might be trying to get some chap down in the States who had served with them to give evidence?—A. He gets the further 60 days. Altogether he would have four months approximately.

*By the Chairman:*

Q. Four months. Must the case necessarily go before the commission and be decided upon at the end of those four months; is that your scheme? Or if the case is not ready can you say to the commission: "We are not ready to proceed"; or are you thinking of providing for that as you could in the ordinary law case?—A. As we lay it down here, he would have four months in which



to complete his case from the time he submits it to the commission; but, of course, if the procedure I suggest is carefully followed the case will not be submitted to the commission at all until it is ready.

Q. He has only four months in which to make up his mind. In other words, you do not force him at any stage of the game to submit his case for decision; but you say, "if you do submit it for two decisions then you are through with the commission?"—A. That is it; that is the decision.

Q. But you can take as long as you like to prepare it—as long as you like before submitting it?—A. Yes.

Q. But you cannot come back more than twice?—A. Exactly. Having submitted it and having received a precis from the bureau setting out all the evidence that is in the claim, he is allowed another 60 days to make his mind up as to whether or not he thinks that precis is complete. Is that clear?

Q. That is clear to me. But even when the precis, in his own mind, is complete, or even at the end of 60 days if the precis is not complete in his mind, he does not have to go on with it. He can wait if he likes to get evidence in Australia?—A. We have not made that provision, Mr. Minister, here.

Mr. BROOKS: That is the point I am bringing out.

The CHAIRMAN: I cannot read in this that there is any obligation on him to present his case without any delay, but there is an obligation on his part to make up his mind as to whether or not he wants to get any further evidence. Is that what you are driving at?

Mr. BROOKS: It says "He may," not "He shall" within 60 days.

WITNESS: It was purposely worded that way. As Colonel Topp pointed out, the major complaint is on account of delays. Now, if the case is carefully prepared in the first instance, the fact that the man has evidence in Australia ought to come out before the case goes to the commission at all, so that any delays that ensue will take place in the course of the preparation of that case. After the case is prepared there are four months, which ought to be sufficient time in which an applicant can determine whether or not he has a claim.

The CHAIRMAN: If he loses his first shot, even with all your carefully prepared precis, and the advocate finds that he possibly lost out because he did not have sufficient evidence, then he has got 60 days in which to make up his mind as to whether he wants to dig up that sufficient evidence or to ask you to dig it up for him; but he is not obliged to send it to the commission in that 60 days, is he?

Mr. BROOKS: I think the intention is to send it to the commission within 60 days.

WITNESS: That was the intention, sir, to try and define a time within which you bring about some sort of finality. If you cure that you will cure the major ills that exist to-day. But you could leave the word "may" in there, and if he notified the commission within 60 days you leave it wide open, but you will not then have affected a remedy for the condition that you find now, namely, where a lot of applicants simply write a letter to the commission and say: "I intend renewing my claim." You keep after that applicant indefinitely, and he does not make his mind up whether or not he wants to renew that claim, and it remains on our books as an undisposed of case. How long are you going to allow that applicant to make his mind up?

The CHAIRMAN: There is no objection to his making his mind up. He wants to prosecute his case, but he says, "I have not sufficient evidence to go on with it." Then you write to him and say, "What more evidence do you think you should have?" or you tell him what more evidence you think he should have, and then you can carry on from there. If he says, "I guess I cannot get the evidence" it is over.

[Mr. Harry Bray.]

*By Mr. Isnor:*

Q. You can go further than that. The last paragraph on page 2 states, "it will be necessary to again impose a time limit whereby this procedure must be completed, and we suggest a further 60 days."—A. That is four months in all.

Q. That is very definite. The second 60 days must be completed?—A. Let me read what I mean as the important part of this suggestion:—

... in all cases where the applicant signifies his intention of continuing with his claim, the Veterans' Bureau shall furnish him with a complete precis of all evidence relating to pension claim in his departmental file.

Now, if that applicant gets a complete precis of the evidence on the files it ought not to take him long—either him or his representative—to determine whether there is any additional evidence which ought to be procured. Sixty days seems ample time to us.

The CHAIRMAN: After the first judgment, he says: "Well, evidently they turned me down because Bill Smith who was with me in France at the time was not there to say that such a thing had happened to me at such a place." The reasons are given. There is no evidence. Well, then, according to your idea he should have 60 days in which to make up his mind as to whether he is able to find Bill Smith; is that it?

WITNESS: That is the suggestion, yes. You see what is going on now. This is actually what happened: the applicant will signify that he wants to renew. Then he will send in a piece of evidence from Bill Smith who served with him in France and who said that he heard him cough on a certain day in France, and that prys the door open again, and he keeps the going indefinitely, and you do not know just when he is going to wind up.

*By Mr. Reid:*

Q. Don't you think it would be better, in the first instance, if he saw the precis?—A. You notice I suggest that.

Q. Before beginning, before the case goes to the Pension Commission, go to the applicant and say, "here is your precis, is there anything left out?" I think there is great merit in that?—A. This is what you have got at present.

The CHAIRMAN: They intend, first of all, to make a full precis before the case ever gets to the commission, then they are going to write him back giving the commission's reasons for their judgment and they are going to ask him, "have you anything further to add, or can you find any further evidence anywhere?" And he has 60 days to see whether he has or has not, and if he has anything further he goes back to the commission. He has two cracks at the commission. After that he is barred from the commission; he has got to keep going.

WITNESS: Mr. Reid's point is well taken in this regard: originally we felt that the applicant should be supplied with a copy of the precis before the case went to the commission. We enquired, and to our surprise found that a little more than 50 per cent of the initial claims go to the quorum. In other words, there appeared to be no object in briefing these cases where a request for a quorum hearing was not made, and frankly we thought we could save that amount of work. That was the main reason why we altered the suggestion and sent the precis to the applicant prior to the initial ruling and put it behind the ruling itself and in between the final ruling from the commission.

Mr. THORSON: There are a lot of claims put in that are allowed by the commission. You would not suggest a preparation of them in advance?

The CHAIRMAN: No, no. It was shown that one out of every three claims had been allowed regularly right along. One year they went down to 25 per

cent, but they have risen as high as 40 per cent—those are entitlement claims—31 per cent of entitlement claims, 21 per cent of death claims, and 60 odd per cent of routine claims. You know, children and helpless allowances and so on. That is all in Mr. Topp's brief.

WITNESS: Mr. Chairman, you may feel that you are spending considerable time on this point, but it really is very important—that is, if it is finality you are after, and I believe everybody desires that, even the soldier himself who has a claim. I really feel that if that case is carefully precisised and the applicant or his representatives get a copy of it then he will go to the Legion Bureaus, to the Army and Navy and the other bureaus, and he will take that precis to them and he will say, "this is what the bureau has sent to me," and the experts in the bureaus will go over that precis with him and they will help him check on any evidence that ought to be produced. And don't forget this: they will also attempt to tell that applicant where his case is weak.

Sir EUGENE Fiset: In other words, as Major Power said a moment ago, every case of the applicant that would come before the Veterans' Bureau would have to be examined in the precis prepared; but you thought certain cases would be disposed of by the commission immediately.

The CHAIRMAN: Oh, no.

Sir EUGENE Fiset: There would be no such cases in the future; every case would have a precis in accordance with your suggestion.

The CHAIRMAN: Yes. Every applicant would go to the Veterans' Bureau for full preparation.

WITNESS: General Fiset is right in the suggestion I am trying to make.

The CHAIRMAN: After it goes, he will be told it has been turned down and there are then 60 days in which to give his judgment as to whether or not he wants to go on to the commission once more. That is, two cracks at the commission.

*By Mr. Thorson:*

Q. Why go to that expense and trouble in the cases where entitlement is going to be granted anyway?—A. I am very glad to answer that. Oh, I see—the ones that are entitled without—let me answer you this way. I say early in my statement here that our experience is that such complaint emanates mainly—not altogether—but mainly from those whose cases cannot succeed. Now, then, would it not be much better to let an applicant have a copy of his case and let him have it on paper, and let him take it to his representative. If it becomes known that all applicants are going to be supplied with a precis of their cases, and if you class all cases where a man is going to get entitlement, that ought to be helpful to the commission, so it would not be wasted time to precis those cases.

The CHAIRMAN: I do not think my friend was here this morning; but the precis means a complete history of service and everything that is on his service documents, and all his medical history.

Mr. THORSON: I have seen them.

WITNESS: I have in mind particularly that case which is weak and where the applicant goes around—all he has is a letter from the commission telling him that they are not able to grant his pension claim. Now, if it becomes generally known that the applicant is being supplied with a complete precis of his case, that should help. I should like to say in passing that the British do this now. The first thing that the representative will ask him—or a member of parliament if he goes to a member of parliament—is, "let me see your precis? Let me see what kind of case you have?" I think it should be helpful.

[Mr. Harry Bray.]



Mr. THORSON: I would say that a precis of this sort should be prepared only in those cases where the commission has written the usual letter to the applicant saying that his pension is not granted.

Sir EUGENE Fiset: You differentiate entirely as to what they have in mind—what is submitted at the present time goes to the commission. That is the procedure at present. If the present process is allowed to go on, the precis would be prepared only after they had gone to the Board of Pension Commissioners.

The CHAIRMAN: No, no.

Sir EUGENE Fiset: Yes. What they do propose is, instead of sending the application to the commission, no application should go to the commission before the precis has been prepared by bureau and before the precis has been examined and sent to the applicant and returned to the bureau. Then it would be sent to the commission. That is what they propose; that is the scheme they want adopted.

Mr. MULOCK: First of all, an applicant applies to the commission, and if his pension is granted there is no precis prepared; if it is turned down, then he has another chance, and that is the time that you prepare the precis.

WITNESS: That is the recommendation in the first part of this brief here; but you will notice—I have to explain this.

The CHAIRMAN: Read your own brief: "The preparation in all cases is checked by the Veterans' Bureau before the case is ruled on in the first instance by the Canadian Pension Commission."

WITNESS: That is the preparation that is checked; but we do not say we will precis them, we say we will check the preparation. Then we go on to say that after the commission is unable to grant it then we will precis it. But if you follow my statement you will notice that I do say in the next paragraph:—

It was first thought we might send precis of case following preparation to all applicants prior to initial ruling by the commission. We find, however, that requests are now made for quorum hearings in only about 50 per cent of the cases, and by briefing only those cases where the applicant indicates a desire to continue, a great deal of time and expense might be saved; although, personally, I can still see a good deal of merit in supplying all applicants with a precis of their claim.

Mr. REID: I think if you put it up in comparison with the present system the picture would stand out more clearly. Suppose a man applies to the Pension Commission and his case is turned down. He is notified that if there is any more evidence he can send it along. He does not know the evidence; he has not seen his precis; he has not a man from France who heard him cough, shall we say; but under your system, after the decision, he would have a precis, and it would be up to the applicant to say whether he wanted any more evidence or could procure any more evidence. However, having seen his precis, he would be in a position to know exactly.

The WITNESS: Prior to the initial ruling. Personally I like that.

Mr. REID: Have I got the picture?

The WITNESS: You have, because—

Mr. REID: Compare it with the present system.

Sir EUGENE Fiset: Take the present routine as it stands and explain it to the committee, then explain your new scheme.

The WITNESS: We will be here all afternoon if I cover the present routine, because the applicant can go on ad infinitum.

Mr. THORSON: Where does it start?

The WITNESS: Almost anywhere. He may send his application to the commission in Ottawa. He may go to the Legion Bureau and they may

prepare it and send it to the commission. He may go to the commission in the local district. He may go to the district Veterans' Bureau. In any event his case gets to the commission. They rule regardless of the state of preparation, and they send a letter to that applicant telling him they have not been able to grant.

Mr. THORSON: In some cases they grant.

The WITNESS: I am speaking of the cases not granted. The ones that are granted are all right.

Mr. THORSON: You do not need a precis for them.

The WITNESS: Here is the point where I think I have got this gentleman's point of view. When that applicant gets the letter back from the commission, he does not know where his case is weak; he does not know what is on his regimental docs or his service docs; he does not know where he can get the best evidence to bridge the gap, to strengthen his case. We propose to tell him that.

Mr. THORSON: Only those people who have been turned down.

The WITNESS: Yes, yes. That is the proposal here.

Mr. HAMILTON: You would like to see it the other way.

The WITNESS: Is that clear? Now, on the other hand, I can see where a great deal of dissatisfaction might be eliminated and a great deal of helpful work done prior to the initial ruling if the applicant was supplied with the precis; but it does not matter a great deal whether you send it to him before or after the initial ruling so long as you send it to him before the commission get through with their final decision.

*By Mr. Thorson:*

Q. If they grant entitlement there is no need for a precis at all?—A. Exactly.

Q. Therefore, the precis idea is of importance only in those cases where the commission does not just grant entitlement?—A. I will allow that.

Q. You prepare a precis for every one of those and send it to them. Now, can you go back with that precis to the Pension Commission?—A. Oh, yes. That is the proposal.

The CHAIRMAN: That is the second crack.

Mr. THORSON: Yes. That is the second crack.

The WITNESS: And the final one.

*By Mr. Thorson:*

Q. Then cannot you go to the quorum from there?—A. Well, let us go on. Have we disposed of that?

The importance, psychologically and otherwise, of supplying the applicant with a complete precis of his case, including service record as well as all other relevant evidence, cannot be over-estimated. The precis will speak for itself regarding the merit of the claim. The Pensions Advocate will not only forward a covering letter to the applicant with the precis, advising as to further procedure, and where indicated, carefully explaining weaknesses in the claim which might be corrected, but will also attach, for the applicant's signature, a form reading somewhat as follows:—"I have read the precis of evidence forwarded to me by the Veterans' Bureau covering my claim to pension. This is complete and contains all the evidence I am able to submit for any claim to pension, excepting the following"—(blank space to allow for applicant's comment).

[Mr. Harry Bray.]

To obviate the possibility of claims remaining undisposed of indefinitely, it will be necessary to again impose a time limit whereby this procedure must be completed, and we suggest a further sixty days.

To overcome the difficulty regarding lack of proper diagnosis and medical opinion, we suggest regulations be laid down by the Director of Medical Services and the Chairman of the Canadian Pension Commission, whereby the Chief Medical Officer in each district be empowered, after consultation with the District Pensions Medical Examiner and the District Pensions Advocate, to examine applicants in departmental clinics and hospitals for check in diagnosis and express of opinion as to etiology, origin, etc., where indicated (it being of course distinctly understood that departmental doctors cannot usurp the function of the Commission by expressing opinions as to service origin or relationship). Such expressions of medical opinion to be effective, must be placed in the record *before the Commission gives final decision*; in fact, such procedure ought to be completed before the Veterans' Bureau precis the case.

Now, there you have a subject that undoubtedly has given the advocates more trouble than any other angle of this work. And I have a further suggestion to make, Mr. Chairman, that is not in the brief. I have drawn it up since.

Considerable delay often ensues in cases of obscure diagnosis and diseases of insidious onset and progression. It would assist considerably if a competent Board of Consultants could be convened for the purpose of drawing up regulations for the guidance of those adjudicating in the matter of pension entitlement covering such conditions as progressive muscular atrophy, disseminated sclerosis, thrombo-angiitis obliterans, encephalitis lethargica, encephelo-myelitis, Hodgkins' disease, the various malignant or cancer diseases, neurological conditions, and conditions peculiar to prisoners of war.

Names such as Professor Oskar Klotz, Toronto; Professor W. T. Connell, Kingston; Professor James Miller, Kingston; Dr. Boyd, Pathologist, Winnipeg; Dr. G. W. Loughheed, Toronto; and Dr. Fred McKay, Montreal, come immediately to one's mind.

In any event, I feel sure from experience there would be no difficulty in getting together a board of the most outstanding consultants in pathology, neurology, or psychiatry, as well as internal medicine, and that such a board would produce data which would not only be helpful to those adjudicating in matters of pension entitlement but also to the Departmental Treatment Branch.

Now, the gist of that suggestion is this: Some years ago through the Tubercular Veterans' section of the Legion a board of consultants was convened, and they laid down regulations, which became part of the statute incidentally, governing entitlement for tuberculosis. I do not suggest for a moment that you can get a measure that will govern entitlement as accurately in these diseases as it did in the disease of tuberculosis; but I do suggest that if you could get the benefit of these scientific minds on these decisions of obscure origin some of which were not known in Canada before the war. I mention two, thrombo-angiitis obliterans and encephalitis lethargica. They were not known in Canada before the war.

The CHAIRMAN: They are unknown to me now.

WITNESS: These people would be able to lay down material that would undoubtedly be helpful to everyone concerned, and these are the types of cases that give you 95 per cent of your trouble.



*By Mr. Mutch:*

Q. What you are trying to eliminate is temperamental speculation?—A. You will always have temperamental speculation in these neurological cases.

The CHAIRMAN: That is based rather on the theory that medicine is an exact and mathematical science. It is not so, with all respect to all the doctors.

WITNESS: To get back to my statement, that we propose that the Chief Medical Officer in each district be empowered to bring in an applicant where diagnosis is not well defined, or where in the opinion of the advocate or the applicant's representative there may be some connection between the condition for which the applicant is claiming or some injury or disease for which the applicant already holds entitlement.

The CHAIRMAN: Give us an example of that, will you?

WITNESS: An example might be, hurriedly, the case of a man with a record of service recording myalgia, complaining continually of a pain in the right hip; ten years afterwards the diagnosis of the expert would be tubercular hip. It would take an expert to say with any degree of confidence, that is for purposes of pension adjudication, whether what the man complained of on service was the actual commencement of tubercular hip and not myalgia, which is incidentally merely a blanket diagnosis.

If you had a board of consultants, let us take this thrombo-angiitis obliterans—that is a disease where the extremities become affected, they become gangrenous and it is a terrible disease. Perhaps I should not say this. They start then in extreme cases and amputate. It is very serious. Now, the early manifestations of that disease may be diagnosed as all sorts of things, a condition (as we have proved) of myalgia or rheumatism or any diagnosis that designates pain particularly in the extremities. But it takes an expert to come along and say in the light of what he now finds that what this man was complaining of on service was really thrombo-angiitis obliterans not rheumatism, or myalgia, or trench fever for that matter, and so on.

*By the Chairman:*

Q. Your idea is not to bring in an expert on every case, but rather what Captain Gilman suggested; to ask them a certain number of questions, that if such and such a thing is now occurring can it be related to service?—A. And how, would be of the same importance.

Q. Is that practical in connection with every one of these diseases to which you have made reference?—A. Yes, sir.

Sir EUGENE Fiset: Very nearly.

The CHAIRMAN: You would only have one meeting of these consultants. You would not have to have them meet every year?

Sir EUGENE Fiset: They would establish a series of cases and designate these certain groups as they occur in the early stages, and then go on and follow them stage by stage until a finality has been reached where amputation may be needed, say it is a case of gangrene and so on. I think a board of consultants of that kind would be of tremendous service to us.

WITNESS: Here is another feature I haven't mentioned: These experts would tell you how long it takes that disease to progress to the point where it is diagnosable. Most of these diseases take many years of slow insidious progression before even an expert can diagnose them. In the meantime the general practitioner has applied several diagnoses. But I would not like to stop there, sir. Since we are on the subject I think you ought to have it all. We have a suggestion here that the Chief Medical Officer be empowered to bring applicants in and have them examined at a hospital or departmental clinic.

[Mr. Harry Bray.]

It should not stop there. I think you should give the Bureau some provision whereby if need were indicated they could go outside and get opinions.

The CHAIRMAN: Your scheme would cost us a lot of money.

WITNESS: I do not think so. You must remember this, if you have your board of consultants they will lay down regulations, if you like, or material that will be a guide which can be used in a majority of cases. But there may be an odd case where the advocate feels that he must go outside, that he must go to a consultant who is not on the departmental staff.

*By Mr. Thorson:*

Q. Would there be many cases of that sort?—A. Very few, and I should not like to see them shut out.

Q. In cases of that sort isn't it possible under the present procedure to get a board in a case like that. If there is a real dispute about diagnosis?

—A. Yes. Section 57 of the statute empowers the commission to order such an outside board of consultants, and we invariably get that permission.

Q. Would not that cover but comparatively few cases?

Sir EUGENE Fiset: A few extreme cases; there are lots of ordinary cases though. The extreme cases are very few numerically. I have got to say something: Under the present procedure we may not ask a departmental consultant for a written medical opinion before the case goes to the quorum. We are precluded from doing that; and whether the advocates are to blame or not, we may have fallen into error, it has been my understanding at least that we can go to the commission via the quorum in the district for an order under section 57 when the case is coming up for a quorum hearing. So that you will see that that was in my mind when we make this suggestion that a check be made for diagnoses and so on before the case goes to the commission for its final ruling; or, in other words, whilst it is in course of preparation. You will all see how helpful that would be. And I must say this too that generally speaking the most eminent consultants are either on the staff of or at the call of the department, and certainly as far as Toronto is concerned we can get the very best medical advice through the departmental consultants, so that there would be very few cases outside, Mr. Minister.

The CHAIRMAN: So much the better. What is your next point?

WITNESS:

Such procedure will not only result in more efficient and satisfactory adjudication, but will leave the case, following final commission ruling in Ottawa, ready for immediate appeal hearing, if necessary.

*By the Chairman:*

Q. By appeal hearing, with the present set up, you mean the quorum?—

A. Yes, with the present set up that would be the quorum.

Q. Can your scheme work with the present set up?—A. Oh, yes.

Q. Under the present set up you mean the quorum?—A. Yes, sir.

A great deal of objection and dissatisfaction would be eliminated if the members who hear the case in the district, could dictate their decision (where possible) in the presence of the applicant and his representative.

Colonel Topp covered that this morning.

*By Mr. Reid:*

Q. Are there many of those cases?—A. There are many cases which obviously cannot succeed, and the applicant leaves the hearing under the impression that he has made a fair case. Those adjudicating I suggest must know that he cannot succeed and he might as well be told right off.

*By Mr. Thorson:*

Q. And the advocate would know it?—A. The advocate would know it too.

The CHAIRMAN: I suppose you know the answer to that. The answer to that is that if the case is decided right then and there that day the man thinks he has not had sufficient consideration. Of course, under your system of precis I would imagine he would think he had. In some complicated cases you could not do that. I think it was Mr. Brooks, or somebody, pointed out that we cannot state in a statute that a man must give his decision forthwith.

Mr. THORSON: No.

The CHAIRMAN: We can ask that he should do that as soon as possible, and if possible when they return to notify the applicant that he is going to get a decision so that he will be in court and hear it. That can be done as it is done in civil courts where they notify the lawyer that a decision is going to be rendered on such and such a day.

*By Mr. Mulock:*

Q. What do you mean by application without merit; how do you explain that?—A. There are certain conditions which cannot succeed, hyperoptic astigmatism, for instance.

Q. What is that?—A. That is a congenital eye condition, sometimes referred to as being due to a psychopathic personality.

*By Mr. Mutch:*

Q. Would you define that?—A. Yes. High-strung persons are generally born that way. Most geniuses are psychopathic personalities.

*By Mr. Reid:*

Q. Don't you think a lot of dissatisfaction is caused by remarks made by men at the hearing? I know of a case, I appeared in it personally, where a man told the applicant, well, the election will be over by that time, meaning by the time they gave the decision. I was present when that was said last fall; you don't need to worry, the election will be over by that time. The man went away from there with the opinion that everything was fine. He got an adverse decision just the same.—A. I have in mind mainly those conditions which cannot succeed where judgment might well be given right in front of the man, and where if a man has any objection he can raise it right there.

There is a suggestion here which maybe should not have gone in.

The district appeal hearing should be final, except that the Commission should be empowered, where cases are closed either following appeal hearing or by statutory time limit, to grant a re-opening where, in the opinion of the Commission the circumstances justify such action. *We suggest procedure similar to that under which the British Ministry of Pensions adjudicate in "out of time" claims.*

Mr. MULOCK: The same as the Imperial.

*By Mr. Mutch:*

Q. The "appeal" you refer to there is the quorum under the present system?—A. You mean, the quorum decision would be final. Under the present set up that should read, "the ruling of the Pension Appeal Court should be final."

*By Mr. Mulock:*

Q. Are you advocating the same system of procedure as the Imperial?—A. I am. In cases which have been decided by the final court.

[Mr. Harry Bray.]



*By Mr. Reid:*

Q. Mr. Bray, on that point you said in reply to the minister that what you were advocating could very well be carried out under the present system. I was just wondering if you cared to explain it. Could you do that?—A. You want my personal views?

Q. Yes.—A. I have expressed them in this statement.

*By the Chairman:*

Q. You would only have two courts?—A. That is all I would have.

Q. But you could work it with three courts, but it would take a stubborn mule to go to the third. Is that it?—A. I said at the outset, preparation is the crux of the whole matter.

Mr. THORSON: Yes.

*By Mr. Mulock:*

Q. You said your procedure only applied to cases dealt with by the final court?—A. I am working on this "out of time" procedure.

Q. Yes, and I want to get your suggestion on that. How about the case of a man that has not been dealt with? Are you going to limit the time within which he can make application for a pension under this scheme?—A. That would depend on what this committee determines.

Q. I mean, in this submission of yours is there anything of any nature which limits the applicant's right to open his pension case if he has not been dealt with by the final one of these appeal courts?—A. Not under this submission, but the bill which you have before you implies a time limit and when I prepared this I prepared it in the light of your bill.

Q. I see?—A. And you notice that I say, "except that the commission should be empowered, where cases are closed either following appeal hearing or by statutory time limit."

Mr. HAMILTON: There are now, practically speaking, two appeals.

The CHAIRMAN: Yes.

WITNESS: In effect the quorum hearing is an appeal.

*By Mr. Hamilton:*

Q. By dispensing with one of what you might call the appeal tribunals, could that be profitably done if you had better preparation in the initial hearing?—A. I was attempting to suggest that all the way through the brief, that if the preparation is done thoroughly by the time a man reaches the second court he has already had two decisions from the commission. He ought to know whether or not his case is going to succeed by that time.

*By Mr. Green:*

Q. But the man would not be seen in person by the commission?—A. Not by the commission.

Q. The idea of the quorum is to give the man an opportunity to appear and be seen?—A. Which I sincerely hope will be retained in the proceedings.

Q. Would you suggest that the appeal court should see the man, or the commission?—A. The appeal court. I say that in spite of what I heard the minister say this morning with reference to judicial procedure. I still think that that can be made to work in this particular instance, because after all this is different. This work is a specialty and I really feel that the applicant at some time or other if he has a claim ought to be allowed to see his judges.

*By Mr. Hamilton:*

Q. If the preparation was made, as you suggested, before the initial hearing would it not to a great extent increase the number of grants in the first instance without rehearing?—A. Well—would you mind repeating that, sir?

Q. Well, if the preparation was complete before it went before the pension commission at all would it not lessen the number that came back the second time? In other words, there would be more grants made on the first hearing that would not go back a second time?—A. I would say so, decidedly.

Q. There would be a saving of time and expense there?—A. As a matter of fact, Colonel Hamilton, in his evidence this morning Colonel Topp produced figures showing that thorough preparation since the 1930 amendments have resulted in a very large increase in the granting of initial applications.

The WITNESS: If I might be permitted to, Mr. Chairman, I would like to read this letter which was written to me by the British Ministry of Pensions under date of August 27, 1930. This has to do with the British "out of time" procedure. May I say in passing that I was sent by the Soldiers' Aid Commission of Ontario to London, England, where I spent several months in the offices of the British Ministry making certain representations which this letter will explain. It reads:

MINISTRY OF PENSIONS,  
SANCTUARY BUILDINGS,  
18, Great Smith Street,  
S.W. 1.  
27 August, 1930.

G/Gen/16122/5A

DEAR SIR,—With reference to your letters of the 9th December and 24th July last, I am directed by the Minister of Pensions to say that he is now in a position to convey to you the decision of the Government on the larger matters of pension policy, which you raised when you visited this country last autumn, as affecting ex-members of the Imperial Forces in Canada or their dependants.

The most important of these matters was the seven years' time limit on new claims to pension as laid down in Section 5 of the War Pensions Act, 1921. Since your visit, arrangements have been made which enable a man to prefer a claim in respect of disablement by war service at any time and to receive compensation for such disablement if his claim proves to be well-founded; but the Government, after the most careful consideration, have decided that the repeal of Section 5 of the War Pensions Act cannot be contemplated and consequently appeal to the Pensions Appeal Tribunal in this type of case is not available.

In arriving at this decision the Government had before them evidence showing conclusively that seven years is an ample time for the *normal* claim in respect of disablement genuinely due to war service to emerge, as the Ministry were medically advised that it would be; and as a matter of fact over 98 per cent of the whole Pension List had been settled as early as March, 1922,—some years before the time limit expired. What the Ministry has to reckon with, therefore, is a small residue of exceptional cases beyond that time limit; and in regard to these it has been definitely decided that no time limit will be set to the consideration of a case which is supported by evidence, or to its recognition by the State if the case is proved to be well founded.

So far as these late claims arise out of gunshot wound or specific injury in service, no difficulty occurs in dealing with them to the satisfaction of the claimant, since the military documents and records are available; but the position is very different where the claim arises out of some ailment or disease which is of frequent occurrence amongst the population as a whole and which the claimant may well have contracted during the period of eleven years and more since he left the Colours. In the vast majority of these cases no sort of evidence of any kind is produced by the claimant;

[Mr. Harry Bray.]

and it is obvious that no authority—whether Ministry or Tribunal—performing its duty conscientiously could possibly admit such claims. To allow them to go to the Tribunal for a legally binding decision would only serve on the one hand to promote widespread discontent as a result of the inevitable rejection, while on the other it would preclude the Ministry from ever considering the case again even if the claimant was eventually able to produce material evidence which he had been unable to obtain before. For these and other reasons the Government decided that for these late claims a different method of consideration and decision was imperatively necessary from that appropriate to *normal* claims; and the experience which has been gained has only served to confirm them in this view. The arrangements actually in operation provide that all cases where there is material doubt or conflict of evidence shall be considered and advised on by independent Consultants nominated by the highest medical and surgical authorities; and the Government is satisfied that the intervention of these Consultants secures to the claimant the benefit of independent judgment without creating difficulties such as would be likely to arise if a legally final decision had to be rendered.

Having regard to all the considerations involved the Government is satisfied that the arrangements which they have made for dealing with this type of case constitute the most satisfactory solution of the difficult problem arising out of belated claims.

There is something else in this letter that might be helpful to the committee in respect to the matter of the retroactivation of pensions:

As regards final awards the only point remaining to be dealt with was the contention that when the Pensions Appeal Tribunal allows an appeal and increases an award the Tribunal's decision should be made retroactive. In this connection I am to point out that when the Ministry declare an award to be a final award under the War Pensions Act the award becomes a statutory settlement and continues to be such unless and until a Tribunal of Appeal amends it. Awards are declared final awards only after the most careful examination by specially constituted medical boards with specialist advisers according to the type of disability concerned; and the Ministry cannot admit that final awards so made are otherwise than correct assessments of the condition of the man as he appears at the time of examination and afterwards so far as can be foreseen. If the Tribunal finds that the award calls for amendment it must be presumed that there has been some change in the condition since the final award was made; and the earliest possible date from which such change can be presumed to have supervened is the date on which the man enters his appeal. In cases of successful appeal the Ministry already give effect to the Tribunal's decision as from the date of the man's appeal.

Boiled down, that means this: A man under the British scheme was not allowed to commute unless his assessment was 20 per cent or below. They do not use the word commute, they use the term final award. And I believe the minister has the power to make final awards even yet where the assessment is 20 per cent or below. Where the applicant subsequently comes along and on appeal establishes that he has a 60 per cent assessment and not 20 per cent—that is perhaps five years subsequently. Possibly I should explain that in the interim that man's pension has been discontinued by a final award. They ask that when that man was awarded a further pension that it should apply not only to the continuity of his disability, but that the increase should be dated back to the time at which he received his final award. The ministry did not concede that. They said that the new award was just what that says, namely, a brand new award which would go back only to the time the man entered his appeal.



*By the Chairman:*

Q. You were there at that time arguing for the Imperial pensioners?—A. Of Canada.

Q. Of Canada; and asking that their final award be set aside if it could be shown that their disability had increased?—A. Yes, sir.

Q. It has some bearing on what we are talking about. Could you tell me if around Toronto district a very large number of the present ex-Imperialists who are in Toronto, in desperate circumstances, are fellows who did what we call commuted their pension or, what you call in the British system, obtained a final award?—A. A very large percentage. And you would be surprised to know the number of Canadians among them—Canadians who served in the Imperial forces, having transferred to the Royal Air Force, taken out a commission and completed their service with the Imperial unit and incurred disability with an Imperial unit.

Q. Did I understand you to say that you could not get a final award unless you had less than 20 per cent pension?—A. Yes.

Q. If you had a 50 per cent pension, could you buy your pension out?—A. No. My understanding is that you must be below 20 per cent. Now, I think that pretty well covers our proposals as far as the disposition of pension entitlement claims is concerned. The rest of this statement goes on to give information regarding the Bureau.

*By Mr. Reid:*

Q. At the bottom of page 3 I notice that you give figures in connection with Toronto. You are dealing with the impression that has gone forth that the Veterans' Bureau has confined itself to the preparation and presentation of cases to the quorum and tribunal. Now, would the figures and percentages given for Toronto be practically the same throughout Canada?—A. I could not answer that, sir.

Q. I am rather inclined to think the reverse is the case as far as Vancouver is concerned. I may be wrong.—A. Colonel Topp, could you answer that question? The percentage of cases granted by the commission in the first instance in the Toronto district, would that obtain pretty well all over Canada?

Colonel TOPP: It looks to me to be about level. Yes. I would have to work it out to get it.

The CHAIRMAN: You have that on the first page of Colonel Topp's brief. I take it that these figures are correct. Have they been checked up by the Pension Board?

Colonel TOPP: These percentages quoted in my brief this morning are based on figures which were furnished to me by the Canadian Pension Commission.

The CHAIRMAN: So that one in every three original applications for entitlement is now granted?

Colonel TOPP: Approximately that.

Mr. HAMILTON: By the commission?

Colonel TOPP: By the Canadian Pension Commission.

The CHAIRMAN: Before it goes to the quorum at all. And then what did you say about the quorum—18 per cent?

Colonel TOPP: 17·3 per cent of the cases going to the quorums.

The CHAIRMAN: Those are the latest figures available for 1935-36, are they?

Colonel TOPP: That is right, sir. The figures were furnished to me by the commission itself, and I am satisfied of their accuracy as long as they make a daily record of each case as it comes out of the board room.

[Mr. Harry Bray.]

Mr. MULOCK: 17 per cent of the balance.

Mr. REID: He did not catch the question I was asking. What I had in mind, and why I drew a distinction between Vancouver and Toronto was that in this paragraph you are giving the statement that your new bureau has been dealing largely with appeals to the Canadian Pension Commission, and I rather had the viewpoint that as far as we in the west are concerned with the pensions advocates the greater part of the work was confined to getting cases ready for the quorum rather than to go before the Pension Commission.

WITNESS: That impression, I am sure, is erroneous. It is probably because the quorum is a public body and more is known of its activities. You see the preparation and presentation to the commission is all done in the Bureau office without any formal hearing.

The CHAIRMAN: Colonel Topp said this morning that 90 per cent of all cases of entitlement—he is not speaking of routine—of entitlement that go to the Pension Commission go through the Bureau. That is a surprise to me.

Colonel TOPP: General Ross will tell you, I think, Mr. Reid, that in 1932 a joint committee consisting of representatives of soldiers organizations and departmental officials went into this whole question, and that committee, of which General Ross was himself a member, recognized this fact that initial preparation is fundamental, and we recommend that. I think we were unanimous in recommending that, although we were not unanimous in other respects; and particularly since that time preparation of cases for the commission in the first instance has been the most important part of the work done by the Veterans' Bureau.

WITNESS: I should like to say one word about what we call the out-of-time procedure—that is dealing with cases where a claim can be established regardless of either satisfactory time limit for a normal claim or where appeal has been disallowed—an applicant's appeal that an appeal court has given a final ruling on. I have the forms here that the British Ministry used to bring that case within the meaning of their out-of-time procedure. It will be seen that they are very elaborate. The first form simply asks six or eight questions. If the applicant is not considered to have a claim from the information set out in that form, the case dies right then; but if he satisfies the consultants of the Ministry that he may be able to establish a claim he is then forwarded one of these forms to be filled in by the doctors, by the people he has worked for, by any person who can give evidence establishing continuity or service origin, and I am satisfied that with our method of preparation, which the Imperial does not have the benefit of, any genuine claim would succeed if put through similar procedure regardless of either statutory time limit or making the appeal court's ruling final.

*By Mr. Thorson:*

Q. It might even get better consideration than the cases are getting at the present time?—A. But to be effective, whichever body is charged with ruling as to whether that case shall be admitted must see to it that a genuine claim exists before the case is allowed in, or, otherwise, you will have the door wide open again and you will be back where you started from.

*By Mr. Green:*

Q. Is it your idea that the Veterans' Bureau should handle all the claims?—A. Not handle them, check them.

Q. How would the Legion and the Army and Navy Bureaus fit in with that picture?—A. I should think they would have the same part to play as they do today.

Q. Explain that?—A. I have a pension claim. I go to the Legion Bureau. The adjustment officer questions me carefully and follows up all the leads I

can give him. The adjustment officer, when he thinks he has collected all the available evidence, submits it to the commission. The commission will pass it on to the Bureau, and the Veterans' Bureau have a check.

Q. Do they do that now?—A. They do in Toronto.

Q. Do they do it elsewhere in Canada?

The CHAIRMAN: Every time I see a new application, or something that looks like a new application that comes through me, or if a member of parliament writes to me about a case, I simply attach the form and tell him that the Veterans' Bureau is in such a place.

*By Mr. Green:*

Q. The witness has said that the Pension Commission refers an application that has come in from the Legion to the Veterans' Bureau; is that correct?—A. That is correct in Toronto. The file may only be passed for our inspection, but we have a system in Toronto whereby no entitlement claim comes to the commission for ruling unless we see it.

Q. Is that the case elsewhere in Canada?

Colonel TOPP: That applies in a large measure, Mr. Green. I do not mean to infer that when an adjustment officer prepares a case we take the file and subject his preparation to a minute inspection and criticise it and so on, because we do not; but in the course of the preparation of the case a great deal of administrative work is necessary, particularly elsewhere than in Ottawa. For example, an adjustment officer working in Vancouver cannot effectively do his work unless he has a complete file of the case. Now, the completion of that file in Vancouver, by comparing it with the head office file, is carried out by the Veterans' Bureau in Ottawa. That is to say, we send to Vancouver, for the use of the adjustment bureau officer, the material which he requires in order to do his work effectively, and to that extent it is fair, I suppose, to say that all cases go through the bureau.

Mr. GREEN: If this suggestion were adopted, what difference would it make in the size of the Veterans' Bureau?

Colonel TOPP: Very little. No difference at all.

The CHAIRMAN: How much would you recommend us to ask Parliament for in the supplementary estimates?

Mr. GREEN: It looks to me as though it would mean quite an increase in staff.

WITNESS: No, no. It would not, because—

The CHAIRMAN: Would \$25,000 or \$30,000 cover the extra staff needed?

WITNESS: Easily. The point to be remembered is this that in effect all we are proposing here is briefing the case earlier than we now do.

*By Mr. Green:*

Q. You do not brief all the cases now?—A. We brief all cases that come to quorum here.

Q. Do not the Legion and the Army and Navy brief some?—A. Not to my knowledge, sir; but, well now, wait a minute—yes, the Legion, I believe, perhaps in some places before quorums and in such cases they may brief their cases. I will say, speaking for Toronto, we brief all cases that go to quorums here, regardless of who appears.

Colonel TOPP: There is a Legion adjustment officer in London, Ontario, who habitually appears before the quorums. There may be adjustment officers elsewhere who do that, but, generally speaking, I think it has been given already in evidence before the committee that the adjustment bureau officials conduct

[Mr. Harry Bray.]



their work with the commission before there is reference to a quorum. When the reference is made to a quorum, their custom is to hand the case over to the Pensions' Advocate. I might say that the Legion has given us and continues to give us a great deal of assistance all over the country. Particularly the Toronto secretaries help us in digging up medical evidence and that sort of thing in their own localities.

Sir EUGENE Fiset: If that system of precis was adopted, as suggested by Mr. Bray, would that give more work to the Legion?

WITNESS: No.

Colonel TOPP: I do not see that it would affect the present situation in any particular.

*By the Chairman:*

Q. The Legion man in his own home town would check up the precis. That is to say, the Legion Service Bureau would have to somewhat extend its activities in general?—A. The precis should help the Legion.

Mr. MULOCK: Or lessen its activities.

Mr. THORSON: It would lessen the activities of those men, because they would have a full statement in the form of a precis available to them, and they would see what was available.

The CHAIRMAN: They would not have to do any file reading.

Mr. THORSON: No, and they would then be able to confine their activities to finding evidence in regard to matters where in the precis it did not show. It would be of assistance to them.

Colonel TOPP: As a matter of fact, Mr. Thorson, when an adjustment officer or any outside representative whom the soldier nominates wants to begin his work, the first thing he does is to ask for memoranda, a precis of the case. He cannot do without it.

*By Mr. Green:*

Q. In substance, this suggestion would place a great deal more responsibility on the Veterans' Bureau than it has today, would it not?—A. Yes, it would.

Q. You are going to cut down the men's chance—you cut down the number of times that a man's claim can be placed before the commission, do you not?

The CHAIRMAN: He gets two chances.

WITNESS: I am not going to cut his chance down. We are going to enhance it if we have more careful preparation in the first instance.

*By Mr. Green:*

Q. How can your present staff handle that more careful preparation?—A. It is much more difficult to take a case that has been handled and re-handled than it is—I am speaking as a pension advocate now—than it is taking a case and building it up from the beginning. I would rather take the case and have the sole handling of that case than have a case that has gone around the mill several times. They are usually very difficult.

Q. How are you going to take more cases and how are you going to take more responsibility in each case? Do you say that at present the Veterans' Bureau can handle that work?—A. We are precisising the cases now.

Q. Not all of them?—A. All cases that go to a quorum hearing.

Q. In Toronto?

The CHAIRMAN: Practically everywhere, I think.

WITNESS: If you have this proposal you are going to cut your quorum hearings in half for obvious reasons. First, if the man has a claim and that case

is properly prepared before it goes to the commission he is going to get entitlement anyhow. That cuts that out. If he has not a claim, he is not going to succeed anyhow. If he is a logical chap, and most of them are, the majority of them are, he is going to see that he has not got a claim, and he is going to quit without wasting everybody's time.

*By Mr. Hamilton:*

Q. You think you will cut the hearings in half. Would not the expense eliminated by that make up for any additional expense?—A. There is no doubt about it. However, I think the committee is too apprehensive about the additional expense. I may be wrong.

The CHAIRMAN: If their theory is right, there would be an expense of two or three millions more for pensions anyway. He said that. So what difference does it make if we spend some \$50,000 on this?

WITNESS: There may be more money—more additional pensions established over the next year or so.

The CHAIRMAN: Certainly.

WITNESS: But if the system is put into effect you will have finality within two years.

The CHAIRMAN: I would certainly like to see that.

WITNESS: That is my opinion.

The CHAIRMAN: Speaking not as a member of the government, I would be quite willing to have five million spent if I thought there was going to be a finish in ten years.

Mr. MUTCH: He means it will be closer to finality.

Mr. GREEN: Could you define finality?

WITNESS: Yes, when the final court has rendered decision that case is finished.

Mr. MUTCH: When the court has rendered decision on the last living soldier, that is finality.

The CHAIRMAN: You are still wrong on that, because in the United States the last living soldier died seventy-five years ago in as far as the war of 1812 is concerned and there are still four pensioners from that war.

Mr. MUTCH: I am sorry. I should have included his dependents.

*By Mr. Mulock:*

Q. I would like to ask a question in regard to cases. What class of case do you find most difficult to deal with?—A. Well, neurological cases, for obvious reasons. Our experience has been, and I speak without prejudice to any doctors who may be in the room, that neurologists seem to start off on the basis that the man has some inherent weakness, some defective nervous equipment, or something that was born with him that does not make him measure this fellow. That is a handicap to start with. As I say, I am speaking without prejudice. The very nature of the man's disability makes him difficult to deal with. He is nervous; he is irritable; he cannot understand why he does not get a pension immediately. You have to handle him very very carefully, and that for thousands of reasons. The neurological cases and the mental cases, psychiatric cases, are the most difficult to deal with.

Q. What happens if the man has not really got that condition and gets into, shall I call it, the ward? Perhaps you know of cases yourself where that has happened?—A. I think that question is worth while. For instance we get cases of men who were diagnosed either through service or in the immediate post discharge period for neurasthenia. Now, the neurologist, and this is well

[Mr. Harry Bray.]

known, so there is no reason why it should not go into the record, indicated that the worst treatment for neurasthenia was pension. They said, "Don't give him a pension." So they cut off most of those chaps. To-day they are practically down with all sorts of conditions, dementia praecox, those diseases that I enumerated when I spoke of the board of consultants. The experts come along now and they say, after examining the man's service record and the medical examinations at the time of discharge or shortly thereafter, "this chap was not a neurasthenic at all."

Q. Correct.—A. "That was only a symptom which he really was manifesting at that time, so we will say the early symptoms were encephalitis, dementia praecox, manic depressive insanity, and so on and so on."

Q. When a man is submitted to that ward, is he thoroughly examined for other conditions?—A. Now you are getting out of my field, sir. I think you ought to have a doctor from the medical branch if you are going to ask these questions.

The CHAIRMAN: We will bring that up.

WITNESS: I have got my opinion but I would rather not state it.

*By Mr. Hamilton:*

Q. I understand, from what you state, that if the British find later that the disability exceeds 20 per cent of that which was awarded, they come back for further pension?—A. Under what is known as the correction of the awards procedure, and they do; they are reinstating pensions to-day.

Q. So if a man was entitled to 40 per cent, would he get back the 40 per cent pension?—A. He would get back the present assessment, but not on a retroactive basis.

*By Mr. Mulock:*

Q. One of the cases I had in mind was the Blank case. Perhaps you have heard of it?—A. I think I know the case.

Q. Was that man admitted to the neurology ward?—A. At Christie street hospital?

Q. Yes.—A. Yes.

Q. How about Doe? That case was in the neurology ward as well?—A. Yes.

Q. Thank you.

*By Mr. MacNeil:*

Q. The majority of these neurological cases are dealt with under subsection 2 of section 11 of the act?—A. Yes.

Q. Where exception is made with respect to disability of congenital origin, in your opinion would the situation be improved if that class of congenitive origin or congenitive defect were clarified in the interpretation?—A. Yes, but I think it goes farther than that. I just forget the clause in the act that says where a neurology case has been under treatment and the assessable degree of disability persists, the applicant shall be entitled to pension for the residual disability. I think that is even more important than your clarification of the congenital cases.

*By the Chairman:*

Q. You said subsection 2 of section 11?—A. I know the one he means. You mean 11-B?

Q. I think "B" is right.—A. Yes; I know the one. I think that would help, but I think the other angle is even more important. Probably one dovetails the other.



*By Mr. Thorson:*

Q. Do you recall the section we speak of?—A. Section 28, subsection 2:

When in the opinion of a medical neurological expert an applicant for a pension or a pensioner has a disability which is purely functional or hysterical, no pension shall be paid, but such member of the forces shall immediately be referred to a Neurological Centre for treatment.

(3) In cases in which the functional or hysterical disability disappears as the result of treatment the Commission may, in its discretion, award a gratuity in final payment not exceeding five hundred dollars, but no pension shall be paid.

Now, here is the clause:—

(4) When as a result of treatment the functional or hysterical disability has not disappeared, a pension shall be paid in accordance with the extent of the disability: Provided the applicant or pensioner has not unreasonably refused to accept or continue treatment.

Now that whole thing is full of dynamite; because who is going to say where hysteria ends and the real disability starts. And then, neurologists attempt to distinguish between psychopathic personality and the neurosis, and I think if that were clarified—

The CHAIRMAN: That has lasted since 1919. That came into the act about 1919 as a result of suggestions made before a committee of the House by Dr. Colin Russell of Montreal.

WITNESS: Yes.

The CHAIRMAN: It was as a result of what we call shell shock. Lads were coming back and they had no functional disability but still they would have for instance, an ankylosed arm, and nothing in the world would prevent them from thinking that something was wrong, although nothing was wrong. Dr. Russell came here and suggested to us that as long as you gave those fellows pension you would never cure them. The only thing to do with him was to tell him to get out and work, otherwise you will starve. That was the theory of the chief medical men of the day, and that is the reason that was inserted in the act. I do not think that has been materially changed since.

Mr. BROOKS: Has it been working out in that way?

The CHAIRMAN: There were quite a few fellows who suffered from shell shock, and when they came in the hospital they would not go out. I can remember an incident that Dr. Russell related. A chap said his arm would not move, and I asked him how he cured him, and the doctor said that he threw a bar of iron at him and he caught it. I can remember it distinctly.

*By Mr. MacNeill:*

Q. May I ask this question, because a definite mental disturbance is dealt with in that section. There is a difference between a mental disturbance and the other cases.—A. That is the crux of the whole problem, as between functional and the remaining cases.

Mr. MUTCH: Most of your trouble at the present time seems to centre around this.

The CHAIRMAN: 58 per cent of the people treated in the United States hospitals to-day are more or less mental.

Mr. MUTCH: Would the same percentage apply here? It would be interesting to get the percentage of the pensions refused which arise out of neurological and other diseases.

The CHAIRMAN: We can get that, I think.

[Mr. Harry Bray.]

*By Mr. MacNeill:*

Q. In the experience of the witness are such cases governed entirely by sub section B of section 11?—A. No; that is what I wanted to bring out.

Q. Only just those who may be 100 per cent?—A. It may be put down to hysteria or some condition that they suggest is controllable by the patient.

Q. In your experience there are efforts to determine that which is constitutional in origin and that which would actually be caused by service, but do they rely on concrete evidence or some assumption?—A. I am sorry; you will have to repeat that.

Q. There are a number of cases where they attempt to distinguish between psychopathic personality of constitutional origin, and such classes which appear through service; in their decisions determining that the psychopathic personality, we will say, was of constitutional origin, do they make any effort to secure concrete evidence or is it merely a matter of assumption on the part of the medical authority?—A. Unless the advocate continues his efforts to get competent information the commission's decision is usually based on the opinion of the departmental neurologist.

*By Mr. Hamilton:*

Q. Which is an assumption?—A. Oh, I would not say that. The departmental neurologist usually has that patient in his care for some time before he commits his opinion to writing; but it is the most difficult type of case we have to deal with.

*By Mr. Hamilton:*

Q. Whose opinion would the Bureau get?—A. In the majority of such cases we ask for an outside board of consultants, men like Dr. Robert G. Armour, Dr. Goldwin Howland, Dr. George Boyer of Toronto; in Montreal men like Dr. Colin Russell and Dr. Mackay.

*By Mr. Green:*

Q. Have you any difficulty in calling in independent medical men?—A. We have experienced no difficulty with the quorum. I have never been refused, nor have I experienced any difficulty with the quorum, mind you, in calling the witness, if that is what you mean.

Q. Do you not ever need an expert type of opinion before the commission?—A. Yes; I have set that out in my statement.

Q. You have difficulty in getting such evidence?

*By the Chairman:*

Q. They are not allowed to go out. The difficulty is this: If they gave evidence in writing and the commission doctors did not agree with them, it would not look very well to Mr. Bray. I do suggest that we arrange it in some way so that the services of the departmental medical people are at the disposal of the Veterans' Bureau. How it is going to be arranged is an administrative difficulty, but I think it can be done. What I am afraid of most, if we do that, is the soldier himself. He will say, Here is Dr. So and So working for the government, and he said so and so. The commission gives a ruling against him, based on Dr. So and So, who is on the same payroll as the commission. That would appear to me to be the trouble with the soldier. It may only be imagination.—A. I think it can be done, Mr. Chairman, because I have always felt—pardon me putting it this way—that a good advocate can get what he wants out of any competent doctor. These doctors are honourable men; they will give you an honest opinion. I am going to say this, regardless, that I have found the treatment doctors more sympathetic than doctors outside, speaking of experts.

*By Mr. Hamilton:*

Q. Do applicants think that? That is another part of the story, I guess?—  
A. When he gets his claim he thinks it, but the ones who are turned down probably do not. And you do not have to ask a doctor whether the condition is due to service. You can get the information you want without asking him that. For instance, let us take a man with myalgia of the hip who develops a subsequent tubercular hip. It is a very simple matter to ask a doctor whether or not in his opinion the myalgia is connected with tubercular hip.

*By Sir Eugene Fiset:*

Q. It is not too easy for him to decide?—A. That is for the commission to decide.

The CHAIRMAN: If he is a judge he won't decide.

*By Mr. Mulock:*

Q. Have you come in contact with the out patients' treatment at Christie street hospital at all?—A. Yes, I did, to a degree. As I say, our bureau seems to be the clearing house for all complaints.

Q. Did you find many complaints?—A. I would much rather, sir, if you are going into the medical side, you called the chief medical officer in the hospital.

Q. Will you tell me this: Who is in charge of maintenance at the Christie street hospital?

The CHAIRMAN: The department.

WITNESS: I think it is—

The CHAIRMAN: The department.

WITNESS: —a gentleman named Young, Dr. McEwen is district administrator, of course.

Mr. MULOCK: I want to know the condition of the hospital, if I can find out about it at the present time.

The CHAIRMAN: Don't you think you had better bring outside people to tell you that? It is not quite fair to ask one branch of the department either to run down or applaud another branch.

Mr. MULOCK: All right.

The CHAIRMAN: I am putting it to you in that way. After all, they are all in the one department; they have to get along. Bring all the witnesses you like otherwise.

WITNESS: I am going to place myself on record by saying that the departmental doctors have, generally speaking, helped us tremendously in our work on preparing those pension applications.

*By Mr. Hamilton:*

Q. As I understand your suggestion, in regard to pension cases, it is that you have earlier access to departmental doctors; is that correct?—A. Earlier access?

Q. To the departmental doctors?—A. I am asking that departmental doctors be authorized to give us written opinions whenever we ask for them.

Q. You can get that now when you come before the quorum.—A. Only.

Q. Only?—A. Yes.

*By the Chairman:*

Q. The departmental doctor will tell you if the man has heart disease but he will not say, "In my opinion it is due to service." Is that about how it [Mr. Harry Bray.]



works out?—A. You would be surprised at what they tell us verbally. They make it possible to establish many pension claims on verbal advice to applicants. They tell us how to go about it.

*By Mr. Hamilton:*

Q. You would not dispense with the right to consult specialists?—A. No.

The CHAIRMAN: Gentlemen, we have about 15 minutes left. Mr. Woods, how long would it take you to give your statement? If we get Mr. Woods' statement on the record we could question him to-morrow.

Mr. WOODS: The statement itself will probably take 10 or 12 minutes.

Colonel TOPP: Gentlemen, I should like to make this clear before leaving the stand: In bringing forward these percentages we do not think of trying to abuse the work of the Veterans' Bureau or anything of that sort; we simply want to bring out the point that a large number of applications are being granted, and we wanted to bring that to the attention of the committee, irrespective of who does the preparatory work, as a matter of fact.

Witness retired.

WALTER WOODS called.

The CHAIRMAN: Mr. Woods is chairman of the committee on war veterans' allowances.

WITNESS: Mr. Chairman and gentlemen,

I am not quite clear what method the Committee wishes to pursue in examining the question of amendments to the War Veterans' Allowance Act but it occurred to me that it would be of interest to the Committee if I were to briefly trace through the origin of the legislation so that the purpose of those who contributed towards its enactment is made clear.

Having done that, with the Committee's permission, I propose to summarize the representations that have been made before this Committee under four main headings—(1) dealing with lowering of the age of entitlement, (2) dealing with the term "permanently unemployable by reason of physical or mental disability" by introducing the industrial aspect, (3) dealing with the question of those veterans who did not serve in a theatre of actual war and (4) dealing with miscellaneous proposals.

If I then conclude with a brief statement of what has been accomplished by the Act so far, I thought it would assist the Committee in determining to what extent the amendments proposed in Bill 27 meet the situation.

#### *Origin of Legislation*

With regard to the principles upon which the War Veterans' Allowance Act was based, and tracing back the origin of the legislation so that one may have a clear conception of what was in the minds of those who framed it, we find the matter of War Veterans' Allowance was first referred to in the report of the Parliamentary Committee of 1922, which Committee states in its recommendation—"Where ex-soldiers reach the state in life considered to be old age and are not in receipt of such reasonable pension under the regulations, consideration should be given to the establishment of pensions or such other help as may be necessary."

Then in 1924 the Ralston Commission on this subject stated—"As advancing age accompanied by poor health comes on men now in the prime of life, there is bound to be a claim by them that the exertion and strain of service has been a contributing and hastening factor and such claim will be hard to disprove. The Commission is of the opinion that the State will not see these men in want."

Then the Canadian Legion at its Regina Convention in 1929 urged that the Government make provision for the "broken down or burnt out man" who served in a theatre of actual war.

The Army and Navy Veterans' Association passed a similar resolution.

Dr. King appointed a Departmental Committee to study the situation, and in 1930 introduced to the House of Commons the War Veterans' Allowance Act. Before the Parliamentary Committee of 1930 he referred to it as legislation to provide allowances to those who "have become old or who are suffering from disabilities not traceable to service."

And so the War Veterans' Allowance Act was enacted and the Committee of which I am Chairman, in administering the Act during the last five and a half years, has tried to interpret the wishes of Parliament in a common-sense way by paying the allowance to any veteran who has attained the age of sixty provided he be in necessity and with respect to veterans below sixty, to those who are so incapacitated by physical or mental disability, that there is little likelihood of their again being able to maintain themselves.

*By Sir Eugene Fiset:*

Q. Do you apply that in every case?—A. I am not prepared to say, in every case. No doubt, we have made errors.

WITNESS:

The principle of providing for the old and totally incapacitated soldier by special legislation has also been adopted by some other countries and in this connection it will be interesting to the Committee to know that since the enactment of Canada's War Veterans' Allowance Act, New Zealand has enacted a War Veterans' Allowance Act providing practically the same benefits to those veterans "who served with a unit in actual engagement with the enemy and who satisfy the Board that they are unfit for permanent employment by reason of physical or mental disability." It will be observed there is no age stipulation.

Australia also has just recently followed Canada's example by making provision for the prematurely aged or burnt-out soldier. Those are the words used in the legislation. It is stated that soldiers who are mentally or physically unfit or those having reached the age of sixty will be paid allowances. In the case of nurses, the age in Australia has been set at 55.

In the United States at the present time allowances are paid to veterans of the Great War who are permanently and totally disabled, in necessity and not pensioned. No age limitation is imposed.

Then finally there is the special Campaign Pension in Great Britain for ex-members of the regular forces who are in receipt of small pensions and who under this legislation are given a supplementary allowance upon attaining the age of 65.

Now as to the proposals that have been made before this Parliamentary Committee:

I have presented the history that led up to the Act, Mr. Chairman. I have outlined the proposals underlying it as those who proposed it understood them; and I have recited the experience of other countries in similar legislation, because I thought it might be helpful to the committee in understanding the underlying principles upon which the War Veterans' Allowance Act was based; that is to say, assistance to the aged or permanently unemployable veteran made so because of war disability.

[Mr. W. S. Woods.]

*Lowering the age*

The first group embraces representations from various organizations that the age of entitlement be lowered.

The Canadian Legion witnesses urge that the age of entitlement be lowered to 50 and some of them refer to 55; the Army and Navy Veterans also urge that the age be lowered to 50; the Canadian War Disability Pensioners Association of Winnipeg whose brief was presented by Mr. Thorson, M.P., request that the age be lowered to 50, as do the Non-Affiliated Veterans of Montreal whose brief was also presented by Mr. Thorson, M.P. The Windsor Disabled Veterans' Association and the Windsor United Veterans' Forum also urged that the age be lowered to 50.

On the other hand the Canadian Pensioners Association as represented by Mr. McDonagh do not ask that the age be lowered but state—"while we appreciate as a result of the economic conditions times are hard, we do feel that the original principle that brought about the passing of the War Veterans' Allowance Act should not be departed from as any enlargement upon the original principle could only be properly interpreted as a general service pension, which if I may reiterate, we are definitely opposed to."

Mr. Richard Myers, representing the Amputations Association and the Sir Arthur Pearson Club of Blinded Soldiers, records himself and his Organizations as being opposed to any lowering in the age, stating that they view with concern any change in the principle of the Act.

It is also noted that the Hyndman Committee Report which was referred to by a number of witnesses in the discussion on unemployment stated—"It was widely suggested that the age limit under the War Veterans' Allowance Act be reduced from 60 to 50 . . . another suggestion was made that the age be reduced to 55 . . . and a third that cases where the veteran was industrially unemployable should be provided for. To enact that a man who is out of work at the age of 50 or 55 is permanently unemployable, would be to depart from the intention of the Act and would virtually convert any benefits under that Act into general service pensions. We have given very close and earnest consideration to all these requests and are constrained to the view that it would be unwise to disturb the principle upon which the Act was based."

On the other hand some witnesses have urged that if sixty was an appropriate age in 1930, a lower age in view of altered conditions since then is now indicated. They have also pointed out the increased difficulty the old soldier now has to secure work in competition with younger men.

*Permanently unemployable, because of physical or mental disability*

Most organizations who advocated that the age be lowered also recommended that some change be made in the term "permanently unemployable by reason of physical or mental disability".

General Ross of the Canadian Legion suggests in his brief that if the class of work to which a veteran's disability limits him is not available, he should be considered unemployable until such work is available and that those capable of sheltered employment be granted the allowance as a temporary measure.

Mr. Walker of the Canadian Legion suggests that "permanently" be deleted and that the words be added "or is industrially unemployable". He further suggested that the Act be utilized to some extent in solving the unemployment problem and remarked that if a man has been unemployed for three years he is incapable of providing for himself and should be



eligible for War Veterans' Allowance. He further expressed the view that the Dominion Government should accept the responsibility for all unemployed ex-service men.

Mr. Barnard of the Canadian Legion also urged that "industrial unemployability" should be included in the terms of the Act, whilst Capt. Philpott of the Legion stated—"We have no objection to age reduction but we want a broadening to get in more men."

The Army and Navy Veterans Association also suggested that the Act should be changed to read "industrially unemployable".

The Canadian Corps Association urged that the Act be changed to take care not only of those who are physically, but also who are industrially unemployable.

In this connection it is noted that the Hyndman Committee in dealing with the question of permanent unemployability, stated—"A large majority of those who are under sixty years of age and are out of work are so situated because of economic and not physical conditions, and it is felt by your Committee that the recommendations contained in this report will, in a large measure, provide the temporary assistance required by those for whom employment cannot readily be found, without branding them as unemployable for the rest of their lives."

Mr. Richard Myers, speaking on behalf of the Amputations Association, stated on April 30th—"We cannot see how any administering body . . . can say that a man who cannot be certified as medically unemployable, can be declared as industrially unemployable. If in the declaration of his unemployability, depression or unemployment conditions constitute an important factor, then we are in effect suggesting that War Veterans' Allowances should, in addition to the original function intended, be now broadened in its application to provide the equivalent of temporary relief. We realize that other representations have been made. We have hesitated to take issue in any degree with them. We have, however, felt it to be our duty to point out to you the inevitable difficulties. As veterans and responsible citizens, we would not wish to see the War Veterans' Allowance Act varied to the point where, for a largely augmented group of veterans, it would simply become a medium for the provision of a service dole, etc."

*By Mr. Thorson:*

Q. Would it in your opinion be possible to define industrial unemployment?  
—A. I have heard several constructions placed on the term. I have heard several veterans' representatives say, as for instance did Mr. Walker from Calgary, that a man who has been dispossessed from a job for a certain number of years, although he may register no very tangible physical or mental disability he may have gotten out of the work habit and become an industrial misfit. That is one interpretation I have had of it.

Q. It would be very difficult to arrive at a definition of industrial unemployment which would be of any value for administrative purposes?—A. It certainly would present difficulties to determine what would constitute industrial unemployment in the absence of any physical or mental disability.

Q. That is, if it were amended and the term used in the War Veterans' Allowance Act it would be difficult to define just whom we had in mind. If the Act were extended to include those who were industrially unemployable how would that affect the administration? Would it affect the situation very materially?—A. As I have said, if there were no physical or mental disabilities present it would certainly be difficult from the administrative standpoint to determine just who was industrially unemployable.

The CHAIRMAN: It would become unemployment relief.

[Mr. W. S. Woods.]

Sir EUGENE Fiset: Practically speaking it is impossible to give a definition.

Mr. THORSON: I am not speaking of the term, industrially unemployed; I am speaking of the term industrially unemployable.

The CHAIRMAN: It would mean relief, just the ordinary relief which all the municipalities throughout the country are giving. It would be pretty close to that.

Mr. MUTCH: But, he would have it as a matter of right rather than as a matter of grant.

WITNESS:

*Service in England Only*

With reference to the third question, that of veterans who served in England only and are not in receipt of pensions, Mr. Tucker, M.P., urged that the Committee be given discretion in dealing with such cases.

In this connection the Canadian Legion in its resolution in 1929 stated that the benefits it advocated for the burnt-out soldier should be restricted to those who served in a theatre of actual war.

Colonel LaFleche speaking for the Canadian Legion before the Parliamentary Committee in 1930 stated "we do not for the same reason ask this for men who served in Canada or England only" when referring to the severe mental or physical strain on men who served under gunfire.

General Ross speaking before this present Parliamentary Committee stated "if you admit men who served in England only you let them all in and that breaks down our main principle." Later again he stated—"I cannot see how you can bring men in who served in England only without impairing the fundamental principles of the Act." He stated that the Legion was willing to limit any further concessions to men with front line service.

Captain Philpot of the Canadian Legion told this Committee that the question of admitting men with service in England and Canada had not been discussed by his men but thought the Committee could be given discretion in meritorious cases. He further stated that any broadening of the Act in this regard that would make it more difficult to get concessions for those who saw service in the front line would be disastrous.

Col. Wood of the Army and Navy Veterans agreed that the Committee might be given discretion to deal with those who did not serve in a theatre of actual war on their merits.

*By Mr. Thorson:*

Q. Would it be difficult from an administrative viewpoint to exercise a discretion in matters of this kind?—A. In so far as there are approximately as many veterans now alive who did not see service in a theatre of actual war as there are who did see service in France it is a rather large group from which to select and pick specially meritorious cases.

Q. You think it would be difficult to select those cases that are specially meritorious?—A. It naturally follows, the larger the group from which you have to select the greater would be your difficulty in making selections.

Q. There have been cases coming to my attention where having regard to the nature of their service—A. I am not saying it would be impossible, it would be difficult.

The CHAIRMAN: It would be as General Ross says—I do not want to ask you to give your opinion—it would be a departure from the principle on which the Act was based.

Mr. THORSON: Oh yes, unless there were some cases of men who served only in England whose service was of such a nature as to bring them within the category of the burnt-out man. He was not subjected to gunfire.

WITNESS: In that connection, Mr. Thorson, I might point out that there were a great many men whose age and obvious disability when they reached England rendered them obviously unfit to be sent to France. A lot of them were stopped there. There would be quite a number of those.

Mr. THORSON: Then too, there were a good many who served in France whose service there was not a bit more difficult than was the service of those who served only in England; indeed, it was pleasanter and easier.

The CHAIRMAN: I quite agree with you; especially meningitis cases on Salisbury Plain, perhaps. We have got to draw the line somewhere.

It will be seen that the weight of Veterans' Organizations is not recorded so strongly in this matter as it is in the matter of changing the age and providing for industrial as well as physical and mental incapacity. It may be said broadly speaking that there are as many veterans alive who served in Canada and England as there are who served in France and further that to admit those who served in England only would involve a potential increase of 26 per cent which would approximate \$832,000 the first year.

I shall be glad to furnish details of this estimate and any other estimate of cost which the Committee requires, upon request. This question, like that of lowering the age and that of providing for industrial disabilities, is purely a matter for the Committee to decide. It has been stated on the one hand that this legislation was designed to meet conditions arising from the strain suffered by men who served in the battle areas and on the other hand, it has been stated that many served in England only because they were doing work of military importance, were anxious to go to France but were not permitted and were subject to Zeppelin raids, etc., while serving in England.

### *Miscellaneous*

We now come to the fourth group comprising miscellaneous proposals. These for the main part are as follows:

That the Hyndman Committee report on sheltered employment could be taken care of by an expansion of the War Veterans' Allowance Act. (Col. Wood, Army and Navy Veterans Association).

That where a veteran applies for the allowance the Committee should pay his expenses to the centre where he must appear for medical examination. (Mr. McLean, M.P.)

That residence in Canada before application be reduced from twelve to three months.

And that discretion be given to award allowance at married rates to widowers although not residing with their children.

That the Committee be given discretion to award the allowance for twelve months to the widow where the applicant dies between the date of application and the date of the Committee's decision. (General Ross, Canadian Legion.)

That provision be made for widows of recipients. (Mr. Walker, Canadian Legion.)

That the plight of widows be given consideration by continuing their portion of the allowance for the remainder of her life or until she remarried. (Mr. Barnard, Canadian Legion.)

That the allowance be continued to widows for ten years and that it be granted to the widows of those who would have been eligible if they apply within two years after death. (Canadian War Disability Pensioners Association, Winnipeg.)

[Mr. W. S. Woods.]



That married veterans should be allowed an income including the allowance of \$1,000 instead of \$730 as at present. (Mr. Walker, Canadian Legion.)

That veterans on conducting duty be provided for. (Mr. Lawson, M.P.)

That those who served in previous wars should be admitted. (Mr. Barnard, Canadian Legion.)

That where a veteran's income is less than the local relief rate, the Government should make up the difference by unemployment assistance. (Canadian War Disability Pensioners Association.)

That Imperial veterans residing in Canada prior to enactment of enabling legislation which is urged herewith, should be placed on the same basis as members of the Canadian Forces. (Capt. Browne-Wilkinson, Army and Navy Veterans.)

That the word "may" should be altered to "shall" in the Act.

That the minimum allowance payable to single veterans should be \$480 and married veterans \$720. (Windsor United Veterans Open Forum, page 353).

That having admitted Imperials since the war as immigrants to Canada, we might fairly extend the provisions of the War Veterans' Allowance Act to them to a greater extent. (General Ross, pages 339 and 343.)

I cannot guarantee that the foregoing embraces every suggestion that has been made before this Committee as the printed proceedings are somewhat slow in reaching us.

I understand, however, that the Clerk of the Committee will summarize the various representations that have been made and what I have given is my own synopsis as I have culled it from the proceedings.

I shall be glad to furnish the Committee with any comment required on the various proposals that have been submitted, including the probable cost if the age is lowered, or if non-pensioners who served in England or Canada only are made eligible.

In this connection it is only fair to state that a great many of those who would be entitled by such a change in the legislation are at the present time being maintained by the State in some form or another.

The main purport of the amendment in Bill No. 27 is to provide for a class of veteran which the War Veterans' Allowance Committee has encountered in every district office from coast to coast, namely the veteran who is not quite sixty and not quite permanently unemployable. He is in the twilight zone between the two but has insufficient disability for the doctors to classify him "permanently unemployable." The term in the amendment "general unfitness" has to do with his industrial incapacity and I believe the term "specially meritorious case" had special reference to length and character of service in a theatre of actual war.

I have attempted to present fairly and without bias the representations of those who have testified in favour of a reduction in the age of entitlement and those on the other hand who are not in agreement with such a change. These various views are presented to the Committee without any opinion one way or another from myself or the other members of the War Veterans' Allowance Committee as we conceive it to be our business to administer what Parliament enacts and we are of the opinion it would be improper on our part to support or oppose any changes in the legislation except such changes as would have the effect of rounding out the principle and fulfilling the intent of Parliament which enacted the legislation.

The following is a brief synopsis of what the Act has so far accomplished. It was enacted in May 1930 and came into force on the first day of September 1930.

Cross number of applications including those who have applied the second time:			
Under sixty	14,488		
Over sixty	9,684		24,172
These have been disposed of as follows:			
Approved or re-instated:			
Under sixty	4,893		
Over sixty	6,864		11,757
Declined:			
Under sixty	8,914		
Over sixty	2,078		10,992
Withdrawn and ineligible:			
Under sixty	681		
Over sixty	742		1,423
			24,172
Of the 11,757 cases approved, there have been discontinued by			
death	1,280		
Other reasons	1,657		2,937
In payment March 31st, 1936			8,820
			11,757
Of these, 6,194 are of the age of sixty or over involving an annual commitment of			\$1,892,672
Under sixty, 2,626			887,599
Total, 8,820 with an annual commitment of			\$2,780,271

The expenditure under this Act increases month by month for the reason that Veterans are attaining the age of sixty in greater numbers each month. The expenditure for example in the month of *January*, 1936, was \$221,884.18, in *February*, 1936, \$226,105.39 and in *March*, 1936, \$233,292.68.

Thus although the annual liability at present is only \$2,780,000, on the basis of this month to month increase, \$3,200,000 will be required for the present fiscal year not including any amendments.

The expenditure by fiscal years up to the present has been as follows:—

Fiscal Year	Expenditures
1930-31 (seven months)	\$ 318,029.22
1931-32	1,039,551.25
1932-33	1,388,708.15
1933-34	1,646,313.63
1934-35	2,017,074.80
1935-36	2,530,395.57
Total	\$8,940,072.62

The cost of the legislation will gradually increase until the peak is reached in about twenty years' time when in its present form the annual cost will be approximately \$12,000,000 after which it will begin to decline.

All of which is respectfully submitted.

W. S. WOODS,  
*Chairman,*  
War Veterans' Allowance Committee.

Mr. Brooks: Does that include War Veterans' Allowance?  
[Mr. W. S. Woods.]

The CHAIRMAN: These are War Veterans' Allowances only. If the War Veterans' Allowance is continued without change it is going to run up to an annual account of \$12,000,000. May I ask you just one question: Supposing we just say, unemployed—permanently unfit—and have no age limit, so to speak. Start a man at 30 if you like. What effect will that have on the cost?

Sir EUGENE FISER: I was going to ask that same question.

*By the Chairman:*

Q. If you continue to give the men the right to come in at age 60, and also in cases where the man is declared permanently unfit for employment, using the same terms as you do now and taking him in at the age 35 we will say, or without giving any age limit, what will it cost you?—A. Approximately one-third of the money that is expended at the present time is being expended on account of veterans under 60 who are permanently unemployable.

Q. It will cost one-third more?—A. It is hardly correct to say that. It is difficult for me to tell you of those over 60 who will be useless in the labour market. It often happens that a man who is entitled to this allowance and is obtaining it at age 60 is perfectly fit and may just happen to be out of a job. It is difficult for me to tell you what percentage of those over 60 are permanently unemployable.

Q. Can you make a guess at it? You made a guess at this thing in a chart when the bill was before the committee on a former occasion, I think it was in 1930, so that we could see how it works out, how close your figures came?—A. There were two charts made at that time. We estimated that 40 per cent of those attaining the age of the allowance would get the allowance. That was based on the fact that that was the age of pensioners throughout the world, 40 per cent of them had been found to be in necessity. We thought it over and we decided that in view of the fact that we were putting the age at 60 instead of 70, with the men 10 years younger there would be a lower percentage of unemployed. We also took into consideration the further fact that Canada has given preference in her public services, federal, provincial and municipal, to persons who have had overseas service; and we got out a chart in which we estimated that 25 per cent instead of 40 per cent would be likely to demand their allowance. This was printed in 1929 and I would be very glad to supply you with a copy of it, as I think it will be of interest.



## ELIGIBLE AT AGE 60

Year	Total eligible	Total		25 per cent		Married \$480.00	Single \$240.00	Total cost
		M.	S.	M.	S.			
						\$	\$	\$
1930.....	12,705	9,529	3,176	2,382	794	1,143,360	190,560	1,333,920
1931.....	15,013	11,259	3,754	2,815	938	1,351,200	225,120	1,576,320
1932.....	18,541	13,905	4,636	3,476	1,159	1,668,480	278,160	1,946,640
1933.....	21,183	15,887	5,296	3,972	1,324	1,906,560	317,760	2,224,320
1934.....	24,070	18,053	6,017	4,513	1,504	2,166,240	360,960	2,527,200
1935.....	27,096	20,322	6,774	5,080	1,693	2,438,400	406,320	2,844,720
1936.....	30,702	23,026	7,676	5,756	1,919	2,762,880	460,560	3,223,440
1937.....	33,823	25,367	8,456	6,342	2,114	3,044,160	507,360	3,551,520
1938.....	37,198	27,896	9,300	6,974	2,325	3,347,520	558,000	3,905,520
1939.....	41,120	30,840	10,280	7,710	2,570	3,700,800	616,800	4,317,600
1940.....	45,030	33,772	11,258	8,443	2,814	4,052,640	675,360	4,728,000
1941.....	49,121	36,840	12,281	9,210	3,070	4,420,800	736,800	5,157,600
1942.....	52,729	39,547	13,182	9,887	3,296	4,745,760	791,040	5,536,800
1943.....	56,458	42,344	14,114	10,586	3,528	5,081,280	846,720	5,928,000
1944.....	60,803	45,602	15,201	11,401	3,800	5,472,480	912,000	6,384,480
1945.....	65,786	49,340	16,446	12,335	4,112	5,920,800	966,880	6,907,680
1946.....	70,006	52,504	17,502	13,126	4,378	6,300,480	1,050,720	7,351,200
1947.....	74,188	55,641	18,547	13,910	4,637	6,676,800	1,112,880	7,789,680
1948.....	79,098	59,323	19,775	14,831	4,944	7,118,880	1,186,560	8,305,440
1949.....	83,127	62,345	20,782	15,586	5,196	7,481,280	1,247,040	8,728,320
1950.....	87,375	65,531	21,844	16,383	5,461	7,863,840	1,310,640	9,174,480
1951.....	91,084	68,313	22,771	17,078	5,693	8,197,440	1,366,320	9,563,760
1952.....	96,103	72,077	24,026	18,019	6,006	8,649,120	1,441,440	10,090,560
1953.....	100,038	75,028	25,010	18,757	6,252	9,003,360	1,500,480	10,503,840
1954.....	104,057	78,043	26,014	19,511	6,504	9,365,280	1,560,960	10,926,240
1955.....	107,343	80,507	26,836	20,124	6,709	9,659,520	1,610,160	11,269,680
1956.....	110,495	82,871	27,624	20,718	6,906	9,944,640	1,657,440	11,602,080
1957.....	112,470	84,352	28,118	21,088	7,029	10,122,240	1,686,960	11,809,200
1958.....	110,632	82,974	27,658	20,744	6,915	9,957,120	1,659,600	11,616,720
1959.....	108,843	81,632	27,211	20,408	6,803	9,795,840	1,632,720	11,428,560
1960.....	101,924	76,456	25,468	19,114	6,367	9,174,720	1,528,080	10,702,800
1961.....	95,081	71,311	23,770	17,828	5,942	8,557,440	1,426,080	9,983,520
1962.....	88,293	66,220	22,073	16,555	5,518	7,946,400	1,324,320	9,270,720
1963.....	81,681	61,261	20,420	15,315	5,105	7,351,200	1,225,200	8,576,400
1964.....	75,189	56,392	18,797	14,098	4,700	6,767,040	1,128,000	7,895,040
Totals..	2,368,405	1,776,312	592,093	444,075	148,025	213,156,000	35,526,000	248,682,000

For the year 1936 the estimated expenditure is \$3,200,000 odd. That is what we have asked a parliamentary vote for, and I believe that amount has been voted. But for the year which has just closed, the fiscal year 1935, the chart in my hand says \$2,800,000, and we actually expended \$2,520,000.

*By Sir Eugene Fiset:*

Q. Might I ask if you have made any estimates of the amount of relief that is being paid by the government at the present time for returned men who served in the front line?—A. Unemployment relief, sir?

Q. Yes.

The CHAIRMAN: That is one of the reasons why we are proposing an unemployment commission, so that they can go around and find that out.

WITNESS: You do not have many pensioners, sir.

Sir EUGENE FISSET: I was including those small pensions that have been brought up to the full amount of federal subsistence.

The CHAIRMAN: We paid over \$2,000,000.

WITNESS: If my memory serves me right, the vote for the last fiscal year was \$2,800,000.

The CHAIRMAN: \$2,800,000, or \$2,600,000?

WITNESS: Something like that.

The CHAIRMAN: That is, only pensioners whose pension is not high enough.

[Mr. W. S. Woods.]

*By Sir Eugene Fiset:*

Q. But, you say you have no calculation as to the amount of relief; have you any data to indicate the amount that your pensioners are receiving at the present time by way of relief?—A. No, we have no figures on it. There had been no census taken throughout the Dominion. The Province of British Columbia, however, has conducted a census of unemployed ex-soldiers who are maintained by municipal or provincial relief, and they found that there were 6,000 in British Columbia. There have been various statements made before this committee, estimates running around 40,000 of these men. I noticed before the Hyndman commission that estimates were made from 40,000 to 50,000 unemployed ex-service men throughout the Dominion.

Q. Can you give us an idea as to what is the total amount of relief that each of these men is receiving at the present time. Is it more than \$40 under the War Veterans' Allowance Act?—A. I am afraid that would be difficult, a rather wild hazard; particularly because of the fact that those residing in rural municipalities receive amounts which differ so greatly from that received by men residing in cities. I would not care to express figures.

*By the Chairman:*

Q. Could you tell me this: You see, here is the cost at the present time under the War Veterans' Allowance Act. Now, if you were to take all your permanently unemployable and totally disabled, not in receipt of any pension, and with no age limit imposed, could you give us any information as to what that would cost, supposing we were to do that?

MR. THORSON: To include all totally and permanently unemployable.

THE CHAIRMAN: All the permanently and totally disabled, not limited to pensioners, and without any age limitation.

WITNESS: Not provided for by pension—possibly I might point out the situation in the United States. The United States Veterans' Allowance Act has undergone quite a change. They used to spend around \$90,000,000 a year on the non-pensioners, for a living allowance to men who were disabled. They were graded according to the extent of the disability. Where a man was disabled to the extent of 25 per cent he got approximately \$25 a month, or whatever it was; if he were disabled to the extent of 50 per cent he would get \$50; if he was disabled to the extent of 75 per cent, he would get \$75; and if he were totally disabled, had a 100 per cent disability he would get \$100. Now, that legislation applied until the time that Roosevelt administration came in and it actually attained such proportions that they were spending \$90,000,000 a year. When the Roosevelt government came in they said the time has arrived in view of the increasing soldier expenditure in this country for this country to re-enact its responsibility towards these ex-service men, and they laid down certain principles the first of which as I recall it was that we will pay generous pensions to veterans who served in a theatre of war through the Great War and incurred disability as a result; also, we will pay reasonable pensions to those who did not serve in a theatre of war but who incurred disability as a result of service; so far as those who did not incur any disability as a result of their service but who were veterans of the Great War are concerned we will provide for the totally incapacitated men but not the partially incapacitated men. As a result of that change in taking only the totally disabled men their expenditures in one year dropped from \$90,000,000 to \$9,000,000, and last year it had gradually crept up until it reached the total of \$11,000,000.

SIR EUGENE FISET: I am wholly convinced that constituted authorities throughout the country, in the form of federal, provincial and municipal organizations are paying the returned men, under the existing systems, a higher rate of relief than we would have been paying them had they all come under the War Veterans' Allowance Act.

Mr. MUTCH: You mean, if we had been paying them a straight service pension?

Sir EUGENE Fiset: Yes. That is, in the case of men who served overseas, in the front line.

The CHAIRMAN: You would have no more pensions?

Sir EUGENE Fiset: No more pensions. And I tell you frankly, if you took the trouble—and I think when the commission sits and you have the data there you will find that the amount of money that you are paying at the present time would exceed what you would be paying to these men as a war veterans' allowance; that is \$40 for married and \$20 for single men.

The CHAIRMAN: You would stop the service pension and just pay the men a certain amount? That is your idea?

Sir EUGENE Fiset: Yes.

The CHAIRMAN: Give the unmarried man \$20, and the married man \$40?

Sir EUGENE Fiset: You will see when your commission begins to sit and you have the figures available, you will find that you are paying more at the present time than you would be paying these men under the War Veterans' Allowance Act. And this situation will apply as far as the returned men are concerned perhaps for ever.

The CHAIRMAN: Does anyone want to question Mr. Woods tomorrow when he comes back?

Mr. HAMILTON: I would like him to be here, if it is possible.

The CHAIRMAN: Will I call any witnesses for tomorrow morning?

Mr. THORSON: Who would you call for tomorrow?

The CHAIRMAN: I suppose Judge Taylor, I will ask him if he is willing to come. I do not know whether he is prepared. We might have Judge Taylor or Judge Hyndman. I might ask them if they can come. If there are any questions of Mr. Woods he is always at your disposal. He has made an admirable summing up to the evidence that has been before us. There is no question about that.

Sir EUGENE Fiset: That is the kind of a precis I would like to have of the evidence that has been presented to us.

Mr. MUTCH: There is a lot of it there.

The CHAIRMAN: What is the wish of the committee for tomorrow? It does not make any difference to me. I can arrange to telephone to Judge Hyndman or to Judge Taylor. We could have Mr. Woods back any time you wish. He will be always at your disposal and you will have his statement before you. His statement is very clear and we can ask him to come back so that we can discuss it with him at any time. If there are any figures you would like to have prepared in connection with any of this material we will ask Mr. Woods to have them prepared for us.

WITNESS: This is my synopsis of the evidence which has been placed before you, together with the statement of the principles on which the Act is based, and what other countries are doing in that regard. I shall be glad at any time to discuss any phase of it you may wish.

The CHAIRMAN: We can ask Judge Taylor to come here tomorrow, and we might also ask General McDonald and Dr. Kee.

We will meet again tomorrow at 11 o'clock in the morning.

The committee adjourned at 6:20 p.m. to meet again tomorrow, Wednesday, May 13, 1936, at 11 o'clock a.m.



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SESSION 1936

HOUSE OF COMMONS

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SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

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MINUTES OF PROCEEDINGS AND EVIDENCE

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No. 17

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WEDNESDAY, MAY 13, 1936.

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WITNESS:

Mr. Justice F. G. Taylor, Chairman of Canadian Pension Commission.



## MINUTES OF PROCEEDINGS

WEDNESDAY, May 13, 1936.

11.00 a.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11.00 o'clock, a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Macdonald (*Brantford City*), MacNeil, Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Thorson and Wilton.—17.

The Chairman read two telegrams addressed to the Secretary of the Committee; one from W. T. Atwood, Lower Mainland Executive Councils Canadian Legion, B.C., and one from Robert Macnicol, Provincial Secretary, Canadian Legion, B.C., each protesting against certain representations made by Mr. Richard Myers in his evidence before the Committee.

Mr. Justice F. G. Taylor, Chairman of the Canadian Pension Commission, was called, examined and retired.

On motion of Mr. Green, it was decided that Mr. Justice Taylor be recalled for further examination at the next meeting, and also that General McDonald and Dr. Kee be called.

The Committee adjourned at 1.00 o'clock, p.m. to meet again Friday, May 15th, at 4.00 o'clock, p.m.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 429,

MAY 13th, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, Hon. C. G. Power, the chairman, presided.

The CHAIRMAN: Order please, gentlemen.

I have two telegrams here which read as follows:

The Secretary, Special Committee on Pension and Returned Soldier Problems, Parliament Buildings, Ottawa. British Columbia Command Canadian Legion emphatically protest representations made by Richard Myers, Honourary Secretary, Amputations Association according to minutes of committee Thursday, April 30th, opposing any reduction qualifying age veterans' allowance and payment departmental relief small pensioners. Stop. Myers represents a small minority of pensioners in Canada and few if any amputation cases would benefit by War Veterans' Allowance regulations or payment departmental relief small pensioners. Stop. Respectfully suggest his representations be judged accordingly. Stop. Kindly register this protest in committee minutes.

ROBERT MACNICOL.

*Provincial Secretary, Canadian Legion.*

The other one reads:—

Special Committee on Pension and Returned Soldier Problems, Ottawa. Please place on record emphatic protest of executive members representing thirty-six units Canadian Legion lower mainland British Columbia assembled New Westminster last night against attitude Richard Myers Amputations Association opposing reduction qualifying age war veterans' allowances and relief small pensioners. Stop. Myers represents comparatively small number veterans, a well protected class, few if any of whom can benefit war veterans' allowance or small pensioners relief regulations. Stop. Evidence should be discounted accordingly. W. T. Atwood, Secretary, Lower Mainland Executive Councils, Canadian Legion, B.C.

Now then, we can get down to business.  
Judge Taylor, will you take the stand.

Mr. JUSTICE F. G. TAYLOR, Acting Chairman, Canadian Pension Commission, called:

The CHAIRMAN: I do not think that anybody wants to ask you any questions they want you to make a statement, if you care to do so.

WITNESS: I really did not prepare any speech for the committee, Mr. Minister. I thought perhaps the committee would ask me about anything with respect to which they desire information.

The CHAIRMAN: There was one thing, as I recall it General Ross in his evidence said that he thought you had kept more or less of a diary of what had gone on whilst you had been there, and that you were prepared to make suggestions which might be helpful to the committee in discussing these bills, particularly bill 26. Have you any suggestions along those lines?

WITNESS: I think every member of the committee knows the circumstances under which I came to the Pension Commission, and I have not kept any diary because a diary would just consist of what perhaps you might say were things that I thought were wrong, and I thought the proper thing to do was to try to correct them. There wasn't any object in keeping any record of what had been wrong, and I have not kept it. I read, of course, a discussion in parliament where I might be asked to do that, but the minister never asked me to do it, and I have not done it. I have just gone on with the work of the commission as best I can.

*By the Chairman:*

Q. What is the discussion in parliament to which you refer?—A. There was some discussion in parliament. I think it was Mr. Bennett who said that I would be asked to keep a diary, or something of that kind, but I have not done it because I did not see any advantage in keeping a record of what had gone on in the past. It was a question of trying to get it into as good shape as possible for the future.

As you know, when I came the quorum system as it is now organized was working, and had been working for the preceeding 8 or 9 months. We had eight commissioners then, including the chairman. When the quorums started to function on the first of October, 1933, there were about 1,200 cases waiting for quorum hearing. I came in August 1934. By that time the number had very materially increased and I immediately asked the government for more commissioners, because we had not enough quorums to even keep abreast of the work that was coming in, let alone getting out any arrears of work. We reached our peak on the 1st of May, 1935, when we had some 4,500 cases, I think very close to that, of all kinds waiting for quorum hearings. About a year ago now we got four extra commissioners which gave us two more quorums. Since that time we have been keeping four quorums continuously in the field. The other four members have been sometimes sitting on quorums, but not continuously. But we are able with them to keep four quorums going all the time, and for part of the time five quorums. The result is that in the last year we have cut down the number of arrears by 1,643 cases. From the 1st of May this year we still had about 2,600 cases of all kinds to be heard. These can be caught up I think, as far as cases of quorum hearings ever can be caught up, in the next year, so that we will be right abreast of our quorum hearings, and then the term of these extra commissioners will be up. I do not think we will need them any longer.

When I came to the Pension Commission the staff of the commission was rather disorganized and I asked for General McDonald, and got him; and practically ever since his coming he has been in charge of the complete staff of the commission, outside of the commissioners themselves. Dr. Kee has been the one commissioner who has been continuously on our board room work at the headquarters office. The other commissioners have been taking their turn in the field, and they take their turn in the board room with Dr. Kee.

I have not, as a rule, been doing board room work. By board room work I mean the daily consideration of the ordinary run of cases as they come in. There are two reasons for that; first, because the Chairman could not possibly find time to do it and do the rest of the work that I thought he should do, and the second reason is that I did not think it was hardly fair, considering the special nature of my appointment, that I should be giving decisions from the board room in the ordinary run of cases.

*By the Chairman:*

Q. You personally do not adjudicate on very many cases?—A. No, because I would have to ask my commissioners in the field, who are under me, to be considering and reversing my decisions, and that would not be quite fair. So

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that as far as the board room cases are concerned, outside of the special problem cases, the rest of them have been dealt with by either Commissioner Kee—and Dr. Kee is the only commissioner who has been sitting continuously in the board room—or the others who take their turn along with him.

Q. As to the details of administration, I presume General McDonald can give us the statistics, and so on, but as to any question of board room work, Dr. Kee will be able to tell us about that?—A. Yes. I get a statement every month from Dr. Kee of what actually takes place in the board room, the number of cases of every kind that is dealt with there, and I have all those. Of course, as you know, the general run of our statistics is kept by the pay branch.

*By Mr. Reid:*

Q. Does that mean that all the heavy work, as far as medical evidence is concerned has fallen on Dr. Kee?—A. I beg your pardon.

Q. Does that mean that all the heavy work, as far as medical evidence is concerned, has fallen on Dr. Kee alone?—A. No, no, it does not mean that at all; but it means that Dr. Kee has not been going out taking quorum hearings. He has been working steadily in the board room. And, of course, the first blush of a medical decision on a pension application, because of that, generally is made by Dr. Kee. He is the Commissioner who usually deals with the first decision.

*By the Chairman:*

Q. Are there always at least two sitting in the board room?—A. Always.

Q. Dr. Kee and one of the members of the travelling quorums who happens to be here?—A. Yes.

Q. They alternate, as a rule?—A. They alternate, yes.

*By Mr. Mutch:*

Q. It was stated to us yesterday that of the awards for entitlement on original application to the Canadian Pension Commission for last year about one-third of them had been granted without any further recourse to other courts?—A. Yes.

Q. That is the percentage of decisions that were given by Dr. Kee and one other of the Commissioners?—A. In almost every case. Some of them would be my own, special cases that had been referred to me, but as a general rule those would be decisions in which Dr. Kee would participate.

*By Sir Eugène Fiset:*

Q. On these special cases, do you sit alone as the Chairman?—A. No. What happens is that the Commissioners in the board room usually send over and ask me for my opinion on them. Very often they come and discuss them with me.

*By the Chairman:*

Q. Must every board room decision be signed by at least two, or must there be three?—A. No, two. Two in every case. Some cases are heard by three commissioners, and in that event every commissioner who sits on the case signs the decision.

*By Mr. Macdonald:*

Q. Is there any contact between the men sitting on the quorums hearing the cases and the commissioners in the board room?

The CHAIRMAN: You mean the same men that would sit in the board room and afterwards sit on the quorums? No, I would say absolutely not.

WITNESS: It is very seldom that that happens. For instance, in alternating, one of the commissioners may be in the board room for two or three weeks along with Dr. Kee; then he goes out for a quorum hearing. He may run across some case on the quorum hearing that he has sat on in the board room as a commissioner. But in that case the man is never compelled to go on and take the quorum hearing before he has been given the option of having the case stand over until the next hearing.

*By the Chairman:*

Q. Is he told that?—A. Yes. I do not know of any case when a man has not had that opportunity.

*By Mr. Reid:*

Q. Is he told that previous to the hearing?—A. Yes.

Q. Or just at the hearing?—A. I think he is told previous.

*By Mr. Brooks:*

Q. Are there ever any dissenting decisions when there are two sitting?—A. Yes.

Q. Do they keep a record of the dissenting decisions?—A. Yes, each commissioner writes his own reasons and puts them on the file.

*By the Chairman:*

Q. When there are only two, they ask you to referee, so to speak, is that it?—A. Well, not always me, but if the two commissioners in the board room do not agree then a third commissioner is called in and the majority governs as to the decision.

*By Mr. Mutch:*

Q. Was it the practice in previous times that board room quorums always had a doctor on them? I understand that it has been the practice ever since you have been there for Dr. Kee to be always there. Was that formerly the case?—A. I think that always has been the practice.

Q. At least one doctor and a commissioner must be on the quorum?—A. I think that has always been the practice both of the old Board of Pension Commissioners, and it certainly has been of the Commission since I came.

MR. MUTCH: I understood it has been since you have been there, but I was wondering about the situation previously.

THE CHAIRMAN: Dr. Kee will tell you that Dr. Ellis was a member of the Commission for a long time.

DR. KEE: That is correct

THE CHAIRMAN: Who was the other doctor?

DR. KEE: Dr. McQuade.

THE CHAIRMAN: There have been two doctors and a lawyer most of the time since you have been there?

DR. KEE: Yes.

*By Mr. Macdonald:*

Q. What knowledge has a commissioner sitting on a quorum of a case before he hears it? Does he usually go over the file before the case comes up for hearing?—A. They have access in all cases to the district file. Our head office file, of course, remains at head office, except in exceptional cases. But before the quorum hearing comes along our district file is completed by putting

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on it copies of everything on the head office file that is thought to be relevant to the man's case. Now the quorum has that at their disposal when they are hearing the case. But before they start to hear a case there is a precis prepared at our head office supposed to cover all the items of importance in the whole case, and the Commissioners are provided with that in advance.

*By Sir Eugène Fiset:*

Q. By whom is that precis prepared?—A. By the medical officers in the head office of the Commission.

*By the Chairman:*

Q. Is that a precis for the use of the members of the quorum only?—A. Yes.

Q. It goes on the file, and in that sense it is a public document?—A. Yes, it goes on the file.

Q. Can the Advocate look at the precis before he starts the case?—A. Oh, yes. Anybody can see it who is entitled to see the file.

*By Mr. Reid:*

Q. What would your opinion be in respect to the statement made yesterday that a man appearing before the quorum is given a decision right there? That is the practice, I understand, or is the decision reserved for a certain length of time?—A. No, we try to give our decisions as promptly as possible. It would be a very bad thing to say to our Commissioners that they must give decisions instantly, because I know personally that I find sleeping over a case does you a lot of good very often. There are a great many cases, of course, when they can decide at once, but ordinarily I do not think it is good practice to do it. Sometimes in a case that looks hopeless at first, by going over it more carefully, afterwards you can see something in it that has some merit. It used to be a very considerable practice that the Commissioners would go out and hear these cases in the field and they would reserve a large number of their decisions and come back to head office and write them there. Now that has been stopped. Our Commissioners are writing their decisions now mostly in the field, and doing it within a few days of the time they hear the case.

*By the Chairman:*

Q. As I understood the Act before you came in, the intention was that they should return to head office to write their decisions to make it a decision of the Commission? Am I right in that?—A. There was a section of the Act which would give a Commissioner a very good excuse for doing that if he wanted to do it. The section does not say they must do it, but it says they must refer to all relevant documents. If a Commissioner said he thought there might be some document on the head office file that he wanted to look at, you could not say very much about it. But with a complete precis, such as they get now, that practice has pretty well stopped. There has been only one quorum since I came here about which there has been very much fault to find in that connection.

*By Mr. Brooks:*

Q. What would you think of the idea of calling the applicants in to hear the decision, that is wherever possible, from the quorum when they had reached a decision? That is, explaining to him why the decision was given in the way it was, and so on?—A. Well, with our Commissioners moving around the way they are, that could not be done, except in a percentage of the cases.

*By the Chairman:*

Q. They would not be back to the same place for six months, would they?—A. No, and it would mean a good deal of expense in calling them back.



*By Mr. Thorson:*

Q. If a quorum was in a district for any length of time, it could be done?—A. Yes, like Winnipeg or Toronto or Vancouver where they sit for weeks at a time, that could be done. It would take time, of course, and mean a good deal of additional expense. But I find that our quorums, as a rule, write pretty complete reasons. Some of them write very long reasons. I do not know whether there would be any particular advantage in calling an applicant in to explain it to him. It would mean quite a bit of delay. Our quorums could not do the same amount of work.

*By Mr. Macdonald:*

Q. And it might be very unpleasant because the man might not take it very kindly?—A. Our quorums have run across that in some cases where they have been sitting for a long time in one place. The decision would come out while they were there and the man would buttonhole them after he got the decision and want them to discuss it and talk it over and find fault with it. Generally speaking, I think if he gets a fairly comprehensive reason for the decision that that ought to satisfy him.

*By Mr. Mutch:*

Q. It was suggested to us yesterday in evidence that of the men who appeal to the Commission for entitlement and are refused, last year, for instance, 50 per cent of those men accepted the decision and do not again apply?—A. The percentage, as nearly as we can work it out, is 46 per cent.

Q. That is considerably higher than it has been in the past, or is it?—A. I have not made that comparison, Mr. Mutch. I do not know. The way I arrived at that was that I took twelve months of cases that we had given adverse decisions on in the board room, and then I took the number of men who during that same period of twelve months had asked for quorum hearings, and the percentage was 54 that had asked for quorum hearings. In all cases those would not be the same cases, but I think the average over the twelve months would get us a pretty fair picture.

*By the Chairman:*

Q. You, of course, did not read the evidence of Colonel Topp, yesterday, but he, from memory, said that of the cases coming before you in a stated period, approximately 31 per cent were granted entitlement?—A. Yes.

Q. Those figures come from you, do they?—A. Those are the records of our board room, and they agree with Colonel Topp's record.

Dr. KEE: Those are my figures.

Q. We can take those figures as being the Commission's figures?—A. Absolutely correct. And we have the details for those for every month.

Q. He also quoted another figure of the favourable decisions given by the quorums, and he placed it at about 17½ per cent for 1935-1936?—A. Yes, it is between 17 and 18 per cent.

*By Mr. Mutch:*

Q. Is that 17 or 18 per cent of the 54 per cent?—A. That is right. It is 17 per cent of the 54 per cent.

Q. It is almost 35 per cent of the total?

Dr. KEE: No.

The CHAIRMAN: No.

WITNESS: It brings the total of claims that were admitted by the Commission and by the quorum up pretty close to well over 40 per cent.

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*By the Chairman:*

Q. How many cases would you figure—I do not think you have the exact number—are now pending before the commission? Is there any way of arriving at that?—A. There are no cases pending before the Commission.

Q. I do not mean pending, but cases that are in what we might call your active files?—A. You mean cases that are coming to us eventually?

Q. Yes.—A. I do not know. I have not any figures and could not even make a guess as to that. So far as our board room is concerned, except for an occasional case, the board room work is cleaned up every night.

Q. How many entitlement cases would you go through in a month in your board room? Perhaps I had better ask General McDonald that question.—A. We have a statement of that.

*By Mr. Macdonald:*

Q. You said your board room cases are cleaned up every night?—A. Yes.

Q. They come to you in a certain state of development, do they?—A. Yes.

Q. Do you make your own decision?—A. No. What happens is that when an application for pension comes to us, a big percentage of our applications, of course, now, are for men who are already on pension for something else and they are applying for another condition. When these applications come to us, if the record is clear and it looks as though entitlement is clear, we just grant it and that is all there is to it. If it does not look clear that he may get a favourable decision, the medical adviser prepares a precis—he does that in every case anyway—covering all the history on the file that is supposed to be of importance. Now that is not sent to the man; it is put on his file. But is immediately sent a questionnaire. The forms of that questionnaire are readily available. And he is asked certain questions about his condition, when it arose, when he noticed it and all that sort of thing. The last question on it is whether or not he wants the Veterans' Bureau to act for him. If he says he wants the Veterans' Bureau to act for him, when that questionnaire come back the file is immediately referred to the Veterans' Bureau for investigation. We do not put a decision on it. If he says he wants somebody else to act for him the file is referred to them, such as the Canadian Legion or the Army and Navy Veterans, or to any person whom he suggests. It is referred to them before we write a decision at all. Then when they tell us the case is ready and they want the Commission to hear it, it comes to our board room and the decision is made and written. A very large percentage of our cases either go to the Veterans' Bureau or to some service organization. I think it is about 90 per cent that is either in the hands of the Veterans' Bureau or some veterans' service organization before we put a decision on it at all.

Q. Do representatives of the Veterans' Bureau or the service organizations appear before the Commission?—A. Always, if they are requested. Ordinarily not, unless they ask to be heard, they do not attend.

*By the Chairman:*

Q. In the ordinary routine proceedings, I do not suppose you would see them very many days in the week, I mean, in connection with the routine work of the board room? They would not be there?—A. There is only a small percentage of cases where they ask to appear personally and present the case in the board room, but they are never refused that permission.

*By Mr. Macdonald:*

Q. Generally speaking, are there any special cases where they do appear?—A. Oh, yes.

Q. How is it they would appear in one case and not in another?—A. Because I fancy, for some special reason of their own, they want to appear. We do not ask what the reason is. Probably a more difficult case.

*By the Chairman:*

Q. If the advocate appeared in every case that comes before you every day, I do not suppose you would be able to get on with your work?—A. We would have to have about five or six board rooms instead of one.

Q. If an advocate appears in every case that comes before you every day, I do not suppose you would be able to get on with your work?—A. We would have to have five or six boards.

*By Mr. Wilton:*

Q. Judge Taylor, what is the percentage of increase for increased pension allowance for men already on pension; what percentage of those is granted?—A. You mean men who are already on pension and are applying for another condition?

Q. Men who are on pension and who get the idea that they are entitled to some more because of some physical complication and appeal to you for additional pension allowance. Have you any idea what percentage of such requests are granted?—A. There are two classes of cases where that would happen: first, where a man was on pension for one condition and was applying for pension for another for the first time, which would mean an increase in his pension if he were successful; the other case is a man who is under pension for one condition and thinks he is not getting enough money for his disability. That is another class of case. I cannot at the moment differentiate those for you.

Q. What I am trying to get at is what percentage of those who think they should have an increased allowance, is granted?

The CHAIRMAN: If it is war veterans themselves you mean, Mr. Wilton, they very seldom get any allowance of that kind.

*By Mr. Wilton:*

Q. For example, I have a man who came down here from Hamilton this morning to see me personally. He has been getting an allowance for a disabled arm. He claims he has medical evidence to show that he has disability other than what has previously been recognized. He thinks he should have an increased allowance for this additional physical disability. I was wondering to what extent you have that condition and to what extent such cases are granted?—A. Doctor Kee can tell you more about that than I can; but that class of case is not what we ordinarily call a board room decision. If a man is dissatisfied with his assessment, what we do in most cases is to order a further examination and a re-assessment. Now, that goes to our medical examiner in the district where he lives. The man is examined there and a report is sent in to us. If a new assessment is confirmed by our medical advisers at headquarters, it goes on and is paid and does not go to the commissioners in the board room at all, except a formal confirmation of one commissioner of the medical adviser's re-assessment.

*By Mr. Thorson:*

Q. The board room does not deal with the question of assessment at all?—A. They do deal with some assessment cases, but not with the ordinary re-examination for an increase in assessment. They go through automatically upon approval. They are not what we refer to as a board room case.

*By Mr. Macdonald:*

Q. They go to the district first, is that correct, for re-examination?—A. Yes.  
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Q. And is the assessment made in the district, or is the condition just reported on?—A. He is examined by our medical examiner in the district who makes a recommendation as to what he thinks assessment should be. That comes into our head office, and it is passed on to one of our medical advisers. If he approves of the recommendation from the district he signs it, and then the commissioner has to O.K. it, and it goes on to the pay branch for automatic payment.

Q. Is the work of one of your officials taken up all the time with approving assessments, or is that duty assigned to different ones at different times?—A. No. We have twelve or fourteen doctors who are doing that work all the time, and the work is divided among themselves, according to classifications: some take heart cases, other chest cases and others wounds, and they are divided in that way amongst our medical staff.

*By Mr. MacNeil:*

Q. Is the re-examination conducted by the same medical examiner who made the original decision or by another medical examiner?—A. Sometimes in the ordinary district where we have only one medical examiner it would ordinarily be the same man. In some exceptional cases we send them to other districts for examination when they are not satisfied with the man in the district. They may say he is not giving them a fair examination, or something of that kind. But those are exceptional cases.

*By Mr. Mutch:*

Q. Do they sometimes ask to apply for outside advice? For instance, we have in Winnipeg certain men who are consultants, and if a man is suffering from gunshot wounds and decides that he is deaf, for example, he is sent to a specialist, is he not?—A. Yes. Our medical examiners will refer that man to a specialist's examination any time that they think it is necessary.

Q. Is that practice generally carried out?—A. Yes.

*By Mr. MacNeil:*

Q. If there is a difference in medical opinion, is that referred to the board room?—A. What do you mean by a difference of medical opinion?

Q. If the independent medical evidence should not agree with the opinions of the departmental medical officers, are those differences referred to the board?—A. Most of those cases I fancy come direct to two commissioners to the board room, and a great many of them come to me.

*By Mr. Mulock:*

Q. Judge Taylor, what is the procedure after a man obtains a favourable decision before a quorum hearing; what happens next with his case?—A. Under the act if the quorum decision is favourable, the decision is sent in to us, and it is automatically referred to the reviewing officer. The man does not get any notice of a favourable decision. If the decision is unfavourable he is notified, but a favourable decision is sent to the reviewing officer first.

Q. When you say "reviewing officer" do you mean one of the medical advisers?—A. No, I mean the reviewing officer appointed under the act—Dr. Shields. There is only one, and he is entirely independent of us; we have nothing to do with it.

Q. What does he do? Does he check over to see whether the award is in accordance with the evidence?—A. He looks the case over, and his duty is to decide whether or not the Crown should appeal from that favourable decision, and if he decides that the Crown should appeal then he instructs pension counsel to appeal the decision. If he O.K.'s it and says he is not going to appeal, then we notify the man that he has got the decision and he will get his assessment in the regular way.

Q. Are there any cases where that procedure is changed a little bit? Do they ever communicate with the quorums and suggest that their assessments are too high?—A. No. Our quorums as a rule since I have come here—our quorums have not been dealing with assessment cases as a rule.

Q. Yes. Now, first of all we have the decision of the quorum. Who bases the amount of entitlement or assessment on the result of the quorum hearing?—A. Well, if a man gets a favourable quorum hearing and it is not appealed—

Q. Yes.—A. —then if we have not got the medical examinations on file upon which an assessment can be made the ordinary routine would be that the man would be called into our district office to have his disability assessed. He is assessed, first of all, by the medical examiner in his district, and the same routine is followed. It comes in to us with the recommendation.

Q. And if that recommendation is favourable—I am thinking of a case where a man is called up for re-examination and the quorum, apparently, recommend him for continuation of the same pension. He has been examined, for instance, at Christie Street Hospital and then later he is notified that his pension has been cut; now, who does that? That is what I am trying to find out. It is not Christie Street Hospital?—A. I do not visualize that case.

Q. I could give you an example.—A. We have some review of assessments by commissioners in the field. We have some in Toronto and some in Vancouver, but those are the only places. Now, if those commissioners heard an assessment case and recommended a certain assessment, we do not review that assessment at headquarters.

Q. Do the medical advisers come into that at all?—A. No. The medical advisers have nothing to say about a man's assessment if the commission says that his assessment should be so and so.

*By Mr. MacNeil:*

Q. Is the degree of assessment furnished at the district office, or do they merely furnish a report on a man's condition?—A. No. The medical examiners in the district have a man examined—they examine him themselves; they refer him to specialists if they think it is necessary; and then they send us what we call our 185. The other recommendation as to what his total disability is and what his disability is from his pensionable condition, they put it in percentages.

The CHAIRMAN: Percentages only. They do not put it in dollars?

WITNESS: No; not in dollars—in percentages.

*By Mr. MacNeil:*

Q. Do the head office medical advisers review that assessment, and have they the power to alter it?—A. No. They have not the power to alter it. If they approve of it it goes on in the regular way. If they think it is too much or too little the practice is that they correspond with the medical examiner in the district; and I found two or three cases where the medical examiner in the district has said 20 per cent and then after correspondence with head office he has said 10 per cent.

Mr. MULOCK: That is one of the cases I am referring to.

*By Mr. Mutch:*

Q. You have never heard of one where he said it was 20 per cent one month and 30 per cent the next?—A. Yes, 20 per cent one month and 30 per cent the next. I have heard where it was not enough; our medical advisers have said it was enough.

The CHAIRMAN: That is, they contradicted the opinion of your head office here; they persisted in their first opinion?

[Mr. Justice F. G. Taylor.]

WITNESS: Yes. Oh, yes; and I think they did do that, because I made it very clear to the medical examiners in the districts that if they do not believe in what their real opinion was, it was not worth anything to us at all, and they could not have an opinion that a man was 20 per cent this month and without any further examination that he was only 10 per cent the next month. One of those opinions was not his real opinion. Now, I think that is pretty well blotted out.

Mr. MULOCK: That has been stopped, has it?

WITNESS: I have not seen a case of that kind for months.

The CHAIRMAN: There seems to be an opinion that the quorum fixes assessments. The quorum does nothing more than show entitlement.

WITNESS: Yes.

The CHAIRMAN: And the medical advisers do the assessing.

*By Mr. Mulock:*

Q. The medical adviser in the district. It is referred to the medical advisers here?—A. It goes to the medical adviser in the district who makes his first recommendation as to the rate of pension.

Q. And then it comes to the medical adviser down here, and he checks that over?—A. Yes.

Q. But in the past, if he thought it was too much, he would refer it back to the medical adviser in the district?—A. Yes.

Q. And the medical adviser in the district in some cases would reduce his assessment?—A. In some cases.

Q. In some cases, just as you say. In other words, one month a man would be entitled to 20 per cent, and after the matter had been taken up by the medical adviser at Ottawa the man would get notice that his assessment had been reduced, say, from 20 per cent to 10 per cent without any further examination?—A. That has happened in a very odd case. It would not be fair to our medical examiners to say they do that as a matter of practice.

*By the Chairman:*

Q. The man would not know, would he?—A. No.

Q. He would not know anything about it anyway?—A. No.

*By Mr. Green:*

Q. Would there be any serious objection to having the opinion of the man on the spot who examined the applicant taken as final. That would make it impossible to reduce that assessment by a man sitting in Ottawa who never sees the applicant at all?—A. That raises the old question of medical examiners in different districts making different assessments for exactly the same disability. The only way we can keep them uniform is by having them reviewed at headquarters.

Q. Have not all these medical examiners had considerable experience in pension cases? You would think they would know themselves what the standard is for different disabilities?—A. They do know too, but they are just like the rest of us—sometimes they are wrong; sometimes they are for the pensioner and sometimes against him.

*By Mr. Mulock:*

Q. Do you keep a record of those particular cases? You say that there are some cases. Have you got a record of them?—A. No, I have not, Colonel.



Q. I was just wondering if there were some medical advisers who were more prone to make a recommendation for reduction than others?—A. You see, we have fourteen medical advisers and they have different dispositions. Some of them are closer assessors than others. I do not know how you would get over that.

*By Mr. Mutch:*

Q. Would the correspondence between the district medical examiners and the medical advisers of the commission appear on the man's file?—A. Always; and if there is any real dispute between the examiner and the medical adviser it goes to the commission and two commissioners give a decision as to what the assessment shall be.

Q. And that appears on the man's file?—A. Yes.

*By Mr. Green:*

Q. It is really an informal appeal from the medical opinion of a doctor in Ottawa who never sees the man?—A. No, it is not that.

The CHAIRMAN: Doctor Kee will tell you the whole story. It is an old story as to whether or not we should allow the examination to be held in the district and finally come to Ottawa.

Mr. THORSON: And it is an old question as to whether there ought to be any appeal on a question of assessment.

Dr. KEE: If there is any dispute at all on the assessment, before the medical adviser makes any change he must refer it to two commissioners, and they ultimately take any responsibility for the change.

*By Mr. Mulock:*

Q. Judge Taylor, what is the position of a medical adviser in a district who is not prepared to take the recommendation or advice of the medical advisers at Ottawa, who say the case should be reduced?—A. He just writes back and says so; he says his recommendation is right, and gives his reasons.

Q. And that is all.

*By Mr. Green:*

Q. Of course, that puts him in a pretty hard position?—A. No. It is exactly what we except him to do. The medical examiner in the district is not worth a cent if he changes his opinion just because somebody finds fault with him.

Q. On the other hand, he would not want to be picking a quarrel with the doctors at headquarters?—A. I do not think that there is any trouble about that now. The medical examiners know very well that I expect them to stick up for their decisions if they think those decisions are right; and if they do not, their opinions are not of any value to me at all.

*By Mr. Mutch:*

Q. Have you had any statement that some of those demands—and I use the word advisedly—for reviews of their decisions made by the headquarters' doctors and the medical advisers, are in the nature of intimidation?—A. No. I have never heard anything of intimidation; but I have heard of some letters by medical advisers that were a pretty clear indication that they wanted the recommendation changed. In fact, I have run across cases where they have made out a new form and sent it to the medical examiner to sign.

Q. I think we would be justified in seeing some of those letters by the headquarters men. A few of the letters I have seen, seem to indicate that the attitude of the headquarters men in these particular cases was to leave the

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intimation with the pension doctor, in the district, that all the medals in the department were being given for economy, and not for generosity. It may be intimidation, but it is a plain suggestion—A. I have no doubt you can find some cases like that, but I think we can very safely say that our medical advisers do not write letters of that kind. If they do I will know about it, because they are not supposed to.

*By Mr. Mulock:*

Q. You have discouraged that practice?—A. I think I have discontinued it.

*By Mr. Green:*

Q. Would there be any particular objection to providing that the assessment of the local medical officer should not be reduced without the matter going before say a quorum?—A. If there is any really dispute between our medical examiner and the medical advisor the file is immediately passed to our board room and they deal with it; and very often, in fact in nearly every case that comes to them in that way, they put their decision right on it at the time that the assessment shall be so and so, and the commissioners sign it.

Q. There might not be what you would call a dispute, the medical advisor at Ottawa might be able to persuade the medical examiner in Vancouver that his assessment is too high?—A. Yes.

Q. Would it not be fairer that no assessment made by a medical examiner could be changed without his going before the quorum?—A. You would have to have a lot more commissioners if you were to attempt to deal with the numbers of them which come in in that way.

Q. There are not a great many local assessments reduced by headquarters?

The CHAIRMAN: The quorums are not supposed to know anything about assessment?

WITNESS: They do not make assessments. They do not do it. They cannot do it.

*By Mr. Mutch:*

Q. Has a man a right of appeal to a quorum on assessment?—A. No.

*By Mr. Macdonald:*

Q. You say there are not a lot of cases coming in on which there is any difference?—A. There are not a great many.

*By Mr. MacNeil:*

Q. Under what conditions do you grant a review of the case where a man disputes the degree of assessment?—A. We have granted them under a good many conditions, Mr. MacNeil. We have sent them to additional experts, and we have sent them to a hospital for observation.

*By Mr. Thorson:*

Q. Do you grant them a new board?—A. Yes. That is a very common thing. We have sent them from Regina to Winnipeg for instance, where a man said he was not getting fairly examined in Regina. We have brought them all the way from Vancouver to Christie Street Hospital.

*By Mr. MacNeil:*

Q. Does the onus rest with the man to produce additional evidence, or do you follow that procedure merely on his appeal?—A. The assessment is based entirely on the medical examination. There is no hearing about that, just a medical examination.

*By Mr. Green:*

Q. What proportion of assessments is reduced by headquarters' doctors?—  
A. Very very small.

Q. So that there would be very few cases of that nature to be referred to the commission?—A. There are not many disputes between our medical examiners and the medical advisors.

Q. I do not mean disputes, reductions?—A. Yes, that is what I mean.

Q. There are very few cases in which the Ottawa doctors reduce the assessment?—A. There are not many compared to the total, not many at all.

Q. How many cases of reduction would there be? Could you say?—A. I could not give you anything definite. It would be such a wild guess that it would not be of any value at all.

*By Mr. MacNeil:*

Q. May I ask in what manner appointments are made to the medical staff of the commission?—A. The medical staff of the commission is all appointed through the Civil Service Commission. General McDonald can give you more direct and better information about that, because he is entirely in control of that sort of thing.

Q. What I would like to know is, how the commission can deal with a medical officer who in the opinion of the commission is not competent, is not measuring up to his professional standard?—A. Well, I imagine all I could do would be to report the matter to the minister.

The CHAIRMAN: And, what could the minister do?

WITNESS: Well, General McDonald could tell you about that. I do not pretend to understand the workings of the Civil Service Act.

Mr. EMERSON: Neither does anybody else.

WITNESS: I could not tell you just how I would go about getting rid of a medical doctor if it should happen that I wanted to fire him.

*By Mr. Macdonald:*

Q. Referring to the question Mr. Green asked: He said there were cases of differences between the medical examiners and the advisors as to assessments?—  
A. Yes.

Q. If there are very few cases why could not all such cases be referred to the board room?—A. All of them are referred to the board room if there is any real difference of opinion, any final real difference of opinion.

Q. Mr. Green I understood suggested that if a case came in from a district to headquarters and the advisers thought the assessment was too high, I understood him to suggest that instead of it going back to the district it should go automatically to the board.

Mr. GREEN: That is what I mean.

WITNESS: I imagine some do go to the board room. Dr. Kee can tell you better about that.

*By Mr. Green:*

Q. Why could they not all go to the board before a man has his assessment reduced by the Ottawa doctors?—A. Sometimes there is some question raised in the correspondence I have seen. There may be a difference of medical opinion between our men in the district and the men here.

Q. Yes. But if that correspondence took place through the channel of the board room here it would do away with any informal agreements, I might say, between the doctor in Vancouver and the doctor in Ottawa; and mind you the doctor in Vancouver does not want to lose his job by getting in Dutch with the doctor in Ottawa.

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The CHAIRMAN: He could not lose his job for that, could he, Judge Taylor?

WITNESS: He is not in the slightest danger of losing his job for that. As far as I am concerned he would be in greater danger of losing his job if he did not stick up for his own opinion.

*By Mr. Green:*

Q. You may not have heard about it?—A. That is quite true, I might not have.

*By Mr. MacNeil:*

Q. What progress has been made in dealing with the divorce cases?—A. The marriage cases are pretty nearly all disposed of now. I can give you the exact record.

The CHAIRMAN: Perhaps it would be just as well if we take this off the record and give Judge Taylor an opportunity to tell you the whole story. It was once put on hansard, and I think perhaps it will be just as well if it did not appear on our record.

*By Mr. Mutch:*

Q. Are there many occasions on which members of the Commission travel for the purpose of hearing assessments?—A. It has been done in Toronto and Vancouver because we had a tremendous pile of dissatisfied assessments in both places, but it has never been done anywhere else, and only once in each of those cities because I considered that as long as we had such a large number of cases in arrears of men who were applying for pension that we should not give the right of way to men who were already on pension and were only dissatisfied with the amount they were getting. But that practice will be resumed when we can do so. What we do in that case is to send two doctors, a travelling medical board, to assess the man and see him personally.

Q. Under the present set-up there would always be two medical men who would be sent out? It does not expressly state that they must be medical men?—A. No, but we found there is not any use sending anybody else. A good many men come in to see me about their assessments, and I am just at sea; I cannot discuss the question of their assessment.

Q. My point is that there is no stipulation that there must be doctor members of the Commission. It seems silly to send somebody who is not a doctor.—A. In some cases men appear before our quorums when they are sitting and they will listen to them, and if they think a recommendation should be made about their assessment, they will send it in. As far as any organized effort is concerned to hear that class of case, we put them all back.

*By Mr. Reid:*

Q. Do you handle the meritorious cases?—A. I do not see all of them but practically all. They are all decided at head office.

Q. A statement was made that there were certain rules laid down for meritorious cases?—A. No, there are not. Rightly or wrongly I very studiously avoided laying down any rules.

*By the Chairman:*

Q. The statement was made here that the Appeal Court had laid down certain rules that were followed by the Commission with respect to meritorious cases. That statement was made by some witness, but I do not remember who. We had it here, and that there was a certain number of decisions that such a thing was not of itself meritorious.—A. That was a statement. I got Mr. Wilson, the departmental solicitor, to go through the decisions of the Pension Appeal Court under

Section 21, and make me a resume of each case where it had laid down any principle involved in connection with that Section. Mr. Wilson made that memorandum for me, which you say, and where they say that a certain case being heard is not sufficient, and another case they say that having such and such a difficulty is not sufficient. I had those classified, and our commissioners all have a copy. But they are just for our guidance. Of course, I am not bound by the decisions of the Pension Appeal Court, and if the Pension Appeal Court has said that under certain circumstances I should not grant a meritorious pension, I am not going to grant it in the face of their decision.

Q. It was never really said?—A. Just to that extent, Mr. Minister, that in an individual case they have said that in their opinion such and such a circumstance is not sufficient.

Mr. THORSON: A case of that nature was brought to the attention of the committee in one of the first sessions by Bowler.

Mr. BOWLER: I filed that statement.

WITNESS: Yes, that is the statement I am talking about.

Mr. THORSON: That was a misconduct case.

WITNESS: No, it was not.

The CHAIRMAN: No, no.

WITNESS: I have a copy of it here.

*By the Chairman:*

Q. We have it here. It states, "The fact that a soldier is granted a decoration is evidence of special merit, but not proof of special merit such as should be required by the Act." That would not bar you from granting a meritorious pension because he had a decoration?—A. No, but I feel that I must follow the opinions which they have expressed. I do not follow these opinions in all cases, because I think perhaps they are not applicable.

Q. For instance, suicide other than due to insanity cannot be regarded as meritorious. There is no reason why they should follow that.

Mr. MUTCH: The mere existence of that type of thing has given the impression to some, although as you say this was done for your guidance only, that there is some definition or restriction placed upon the meritorious clause, and it might give rise to a feeling that every case was not being decided on its own merits; that there were certain barriers there. I think that impression exists.

WITNESS: I am just in the same position as a trial judge would be with any decision of a court of appeal. I respect the decisions of the Pension Appeal Court, and I try to carry them out, but this is something just prepared for my own information. If I came across a case, for instance, where the widow's only ground for asking a meritorious pension was that her husband had gone off and committed suicide, I would say the Pension Appeal Court has said that that is not a sufficient ground, and I would refuse it.

*By Mr. Cameron:*

Q. You do not construe the word "meritorious" to be confined to meritorious service?—A. Oh, no. I consider meritorious as being specially meritorious and applying to all the circumstances of the case. I noticed the discussion about the rules under Section 21, but the minute you start to lay down rules under that Section or say that you will grant a pension under that Section for certain reasons, you are starting to hedge yourself in. And we never state our reasons for granting a pension under that section or for refusing it.

Mr. REID: Was it a case in the early stages, when reviewing meritorious cases, that they considered all the circumstances of the case and whether a widow was destitute, etc., and that in later years these rulings have been laid down and

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taken, as you say, by yourself as a guide?—A. They are a guide to this extent; that I do not knowingly go against a prohibition which the Pension Appeal Court has laid down. Supposing a man had committed suicide, there might be other circumstances of his case that would make the whole case specially meritorious.

*By the Chairman:*

Q. It does not bar suicide, as such, because they state if there are other circumstances?—A. No. We have widows on pension now, and we have done it since this decision was given where men committed suicide.

*By Mr. Thorson:*

Q. And the Pension Appeal Court has not interfered with those decisions?—A. Nobody can interfere with them. Nobody has any right to interfere with any award we make under Section 21.

Q. Is there no appeal?—A. There is no appeal unless we refuse it. If we refuse it, then they can apply to the Pension Appeal Court.

*By Mr. Mutch:*

Q. What percentage of those awards under Section 21 has been made to widows?—A. I think I can tell you approximately.

Q. If it is not readily available you can give it to us later.—A. Up to the end of December there had been 125 awards under Section 21. Practically all of those awards have been made in the last two years, except a special class of about 20 cases that Colonel Thompson put on on account of a ruling of the Pension Appeal Court on account of misconduct.

*By Sir Eugène Fiset:*

Q. Can we take it for granted that there is no regulation existing at the present time for the guidance of the commission except the compendium for your own information which has been distributed to the other members of the quorum?—A. That is all. And our quorums in the field never award a pension under Section 21. But they do write in to us if they have to refuse pension on a merit and ask us to consider it under Section 21.

*By Mr. Mutch:*

Q. Did I understand you to say that 125 awards had been granted to widows?—A. No. I was just seeing if I could get that for you. I cannot tell you offhand, Mr. Mutch. I know I have the figures somewhere.

*By Mr. Thorson:*

Q. Am I to understand that the decisions, then, of the Pension Appeal Court on Section 21 have all been cases where the Pension Commission has refused entitlement under Section 21?—A. Yes.

Q. And the Pension Appeal Court has confirmed, therefore, the decision of the Pension Commission?—A. Yes, except there are one or two cases where the Appeal Court granted pension after we refused it.

GENERAL McDONALD: One case only.

WITNESS: One case only.

THE CHAIRMAN: But they have never overruled. They cannot overrule.

*By Mr. Thorson:*

Q. They can only confirm the previous decision of the Pension Commission or else reverse it and grant entitlement under Section 21?—A. That is all.



The CHAIRMAN: So this compendium, of which so much is made, would only be because the Pension Appeal Court has given such a reason for not granting an award under Section 21, which probably confirmed the reason of the Commission.

*By Mr. Thorson:*

Q. And in so doing confirmed the decision of the Pension Commission?—A. In every case but one.

Q. In every case but one?—A. Yes.

Q. And in that case the Pension Appeal Court granted entitlement under Section 21?—A. Granted entitlement against our decision.

The CHAIRMAN: So it cannot really be said that the Commission has in any way been trammelled by adverse judgments given by the Appeal Court in respect to Section 21.

Mr. THORSON: Exactly.

*By Mr. MacNeil:*

Q. Exactly what is the function of the treasury representative attached to the Commission?—A. He is not attached to the Commission at all. We have nothing to do with the paying of pensions. That is entirely departmental, directly under the Minister.

The CHAIRMAN: Not a bit of it, it is under the finance minister. I think what Mr. MacNeil means is that supposing they bring in a 25 per cent assessment, I do not think anyone in the department of the pension branch or the departmental branch has anything to do with it. It is the treasury that deals with it, is it not?

WITNESS: I beg your pardon?

Q. Supposing after the doctors have their scrap and they say this man has 25 per cent for tuberculosis. That simply goes through and the man's cheque for \$25 is issued by the treasury?—A. That is all.

GENERAL McDONALD: The treasury department merely computes the actual dollars that will be paid for any percentage of pension that is awarded by the Commission. They issue and dispatch the cheque.

The CHAIRMAN: It is not issued by our branch.

General McDONALD: No, sir, by the treasury representative.

The CHAIRMAN: It is not issued by the Department of Pension at all.

Mr. REID: Has the treasury a schedule of rates?

The CHAIRMAN: If a man gets 25 per cent, it is \$25.00.

*By Mr. MacNeil:*

Q. Has the treasury representative any authority, or does the treasury department assume any authority to change awards made by the Commission?—A. They will send a file back to us and ask us if we commenced the pension from the right date, and that sort of thing. They quibble a little more than we think is necessary.

*By Mr. Thorson:*

Q. Do they question the percentage of assessment?—A. No, never. They question little things about the date we commence the payment, and that sort of thing.

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*By Mr. MacNeil:*

Q. Does the Auditor General occasionally interfere?—A. Yes. We get letters from the Auditor General, a few of them, from time to time asking us to review assessments where he thinks the entitlement is wrong, not the actual assessment, but where he thinks the basis of entitlement is wrong.

*By Mr. Green:*

Q. Is that not infringing on the authority of the Commission?—A. He writes drawing attention to the fact that the file says so and so, and he asks us to put a decision on. Sometimes he suggests that the decision is wrong, but the intention of them all is that he is asking us to review a decision and say whether it is right or not.

*By Mr. Brooks:*

Q. You are not under any obligation to do so?—A. The last ten he sent down were all sent back. We did not change any of them.

*By Mr. Reid:*

Q. Have they a special staff for looking through these files?—A. He has a staff right in our building, I understand.

General McDONALD: There is an office in the building.

The CHAIRMAN: That is to say, a cheque comes in in the normal course and they look over that and they find out what it is paid for, and they go and take a look at your files and find out.

WITNESS: They are drawing files from time to time, and they review them, and if they find anything that they think is wrong with them they write us a letter drawing our attention to the fact.

*By Mr. Reid:*

Q. They have no system of checking up on them, have they?—A. No. They do not stop payments. They send the decision to us and ask us whether our decision is right or not, whether it should not be so and so.

*By Mr. MacNeil:*

Q. Have they ever insisted at any time on over-ruling the decision of the commission?—A. Oh, no. The Auditor General, once we have made a decision, cannot say anything about it.

*By Mr. Macdonald:*

Q. Your decision has been made?—A. Yes.

Q. They complain of your decision?—A. Yes.

Q. And they send it back to you?—A. Yes.

Q. What do you do with it?

The CHAIRMAN: The Auditor General's recourse would be to publish it in the parliamentary blue book—that such a payment is over paid.

SIR EUGENE Fiset: He has also the right to draw it to the attention of the Treasury Board.

WITNESS: There is one thing about that which I should tell the committee. The commission has reached the stage now—in fact, only yesterday we had two cases from the Auditor General on which we wrote decisions. In both cases the facts relating to entitlement have been known to the commission for fifteen years. The entitlements were wrong. There is no question about it, they are wrong. In years gone by they should have been corrected; but we have been

paying this man a pension now for fifteen years on that basis with all the facts right from the time where we could have discovered them and should have, and he has not misrepresented anything. We wrote two decisions yesterday and told the Auditor General that when a man has been on pension for fifteen years, even if it was our mistake, we were going to accept it and we would not refuse entitlement. The commission has taken that attitude. It is a new one. If the committee do not approve of it, it is time—

The CHAIRMAN: It will not be the committee; it will go to the Treasury Board, and the Treasury Board will probably report it to parliament. There is no question that in a case like that the Auditor General is doing his duty. That is his job.

WITNESS: Yes.

Sir EUGENE Fiset: That is the position.

The CHAIRMAN: Finally it is reported in the Auditor General's report to parliament and then parliament may take what action it likes. The Auditor General only reports to parliament, evidently.

WITNESS: We have no fault to find with the Auditor General about it. There has been nothing offensive.

The CHAIRMAN: That is his job.

WITNESS: Our relations have been all right; but we think now that those old entitlements should stand.

The CHAIRMAN: The Auditor General takes the attitude that that pension is paid illegally; that under the Pension Act you are not in a position to pay it. Is not that it?

WITNESS: Yes.

The CHAIRMAN: And his duty is to see that no illegal payments are made by any department. He is perfectly within his right.

Mr. Mutch: The Pension Commission considers itself a court, and cannot find itself wrong.

The CHAIRMAN: In this case it is a question of hardship and sympathy.

Mr. Macdonald: In this case the commission says, "we know we are wrong."

Mr. Thorson: What is the justification for continuing it?

WITNESS: For continuing the pension?

Mr. Thorson: Yes.

The CHAIRMAN: Making the illegal payments.

WITNESS: Perhaps you would like to hear about these two cases.

(Discussion followed).

The committee adjourned to meet Friday, May 15th, at 4 o'clock, p.m.



SESSION 1936

HOUSE OF COMMONS

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SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

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MINUTES OF PROCEEDINGS AND EVIDENCE

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No. 18

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FRIDAY, MAY 15, 1936

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WITNESS:

Mr. Justice F. G. Taylor, Chairman of Canadian Pension Commission.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936



## MINUTES OF PROCEEDINGS

FRIDAY, May 15th, 1936.

4 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, MacNeil, Marshall, Mutch, Power (Hon. C. G.), Quelch, Reid, Streight, Thorson and Tucker.—15.

Mr. Justice F. G. Taylor, Chairman of the Canadian Pension Commission, was recalled, examined and retired.

On motion it was resolved that at the next sitting the Committee would hear Mr. Justice Hyndman, President of the Pension Appeal Court, Mr. W. S. Woods, Chairman of the War Veterans' Allowance Committee, and Dr. J. P. S. Cathcart, Chief Psychiatrist, Treatment Branch, Department of Pensions and National Health.

The Committee adjourned at 6.20 p.m. to meet again Monday, May 18, at 11 o'clock, a.m.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

May 15, 1936.

The special committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 4 o'clock, Hon. C. G. Power, the Chairman, presided.

The CHAIRMAN: We have a quorum, and shall commence our proceedings.

Mr. JUSTICE F. G. TAYLOR, called.

WITNESS: Mr. Mutch asked me a question at the last sitting, Mr. Minister, as to the number of widows on pension under section 21. The total is 79. I gave the total the last day.

*By the Chairman:*

Q. Do you want to file that?—A. I may as well. It gives the number of widows who have obtained pension under section 21 and who are now on pension.

*By Mr. Reid:*

Q. Under the meritorious clause?—A. Under section 21. This is a summary of the marriage cases up to date.

The CHAIRMAN: Do you want to file a summary of the marriage cases and have it inserted in the record? There is no great harm. It was all produced in Hansard.

Mr. MUTCH: There is no particular point in it.

The CHAIRMAN: It may be useful to have a record of it. It was in Hansard, and this is up to date. It may obviate the difficulty of somebody asking for it when it is discussed in the House.

Mr. REID: The question may also be raised whether we discussed that point, if it is omitted.

*By the Chairman:*

Q. You have no objection to it being filed in this shape?—A. No. The summary shows there are 45 cases still waiting final decision. All these cases either ask for a quorum hearing or some other investigation.

*By Mr. Hamilton:*

Q. They would not be affected by the so-called deadline?—A. Some of them may be.

Mr. MUTCH: It is not a so-called deadline; it is a real deadline.

The CHAIRMAN: I think Mr. Green wanted to ask some questions.

*By Mr. Green:*

Q. I should like to ask Mr. Justice Taylor his opinion on the wisdom of striking out the words "or was a congenital defect" in section 11(b). There has been some discussion about those particular words.

Mr. MUTCH: In the pension act?

Mr. GREEN: Yes.

WITNESS: I have not had any opinion about that, Mr. Green. The only thing I can say about it would be this: If you are going to go back at this late date and change any principle of the basis of awarding the pension, you will run across some difficulty.

*By Mr. Green:*

Q. In what way do you mean? Old applications that have been refused?—A. Yes; naturally cases that had been decided on that basis would have to be reviewed and put on the same basis as the new cases that come along now. That is the only difficulty that I see in the way.

*By Mr. Mutch:*

Q. It would result in opening up a great many cases?—A. I am not sure; I could not give you any estimate of how many cases it would re-open.

Q. Clearly it would give any man who was judged under that provision the right to be re-heard?—A. Yes.

*By Mr. Green:*

Q. There has been a lot of talk about continuing payments of their portion of the pension to the widows and children of a pensioner after his death, even if he dies of a disease for which he has not been pensioned. There has been a great deal of talk of cancer, tuberculosis and similar diseases in connection with section 32; suggestions were made to extend it down to 50 per cent pensioners.—A. Yes.

Q. What do you think about that?—A. Well, now, as far as extending the 50 per cent pension is concerned that is merely a question of policy, I should think. It would include about 16,500 pensioners, if you put it down to the 50 per cent.

Q. It would mean an additional 15,000?—A. Not that many additional, but we have 16,500 pensioners who are 50 per cent or over.

Q. I understand the widow of a pensioner from 80 per cent to 100 per cent gets her pension after her husband's death, regardless of whether or not the death is attributable to injuries received on service.—A. That is correct, if he has not been on for more than ten years.

Q. What would be the difference in reducing that from 80 per cent to the 50 per cent?—A. Well, that would depend upon the basis on which they fixed the 80 per cent. I have not the faintest idea why they set 80 per cent. I suppose they had to fix some per cent and parliament thought that that was a fair thing to fix. But if the 80 was not there now, I have not much idea as to where you should fix that line. I do not know if my opinion would be of any value to you in that respect.

Q. Is it a very difficult thing to say that a disability from which a man dies was not in any way connected with service?—A. I have always thought it was very difficult, where a man dies who had a large disability, to say that that disability had nothing to do with his death. Of course, I must add to that that my lack of medical knowledge might be the reason for my having that impression. But as a layman I always thought it was pretty difficult to say that disability had nothing to do with the death.

*By Mr. Hamilton:*

Q. The use of the term "results from" insists on connecting the death up pretty directly with the overseas disability, does it not? I mean a man might die and his death eventually might indirectly result from overseas service and yet not be directly attributable to it?—A. I suppose so, but it is pretty largely a medical question.

*By Mr. Green:*

Q. A large proportion of the cases of pensioner's death is held to be not attributable to any injury received on service?—A. I can give you that; I have it here. There were last year 1,777 claims that death was related to service. We admitted 388 and refused 1,389.

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Q. Were they claims by widows?—A. I do not think it would be correct to say they were all widow's claims.

Q. Or children?—A. Because there are other considerations that arise where we have to give a decision whether death was related to service or not, but there were that many cases where the question arose and we had to make a decision as to whether death was related to service, and that was the ratio, 388 to 1,389.

*By Mr. Mutch:*

Q. Were these decisions all given in the board room?—A. Yes, these were all board room decisions.

*By Mr. Hamilton:*

Q. I have in mind the case of the death of an overseas man, who came before the commission. He was killed in a motor accident, and the local medical opinion was he would have survived—he did last some days in the hospital, I think a week or ten days—and had it not been for his weakened condition by reason of overseas service, he would have survived that accident. It was just a chance whether he would live or not. He eventually passed out because of the fact he was in a weakened condition, and that weakened condition was the result of overseas service. Assuming that was the fact, and it could be established, would it be considered that the death resulted as a result of his overseas service, within the meaning of the section?—A. It might be. I had to write a decision very recently on a similar case. I don't remember the name. It was a Saskatoon case. That was a man who had a very bad amputation and he got into an automobile accident. Apparently there was no carelessness on anybody's part. There were some peculiar circumstances about it, and it is not necessary to go into it here. His widow claimed that it was solely on account of his physical condition he got into the accident. Our quorum heard the case and they were divided in opinion, and so it came to me. I agreed with the member of the quorum who was in favour of awarding the pension; consequently the decision was given. It is in the appeal court now, and I do not know what the appeal court will say about it.

*By Mr. Green:*

Q. Have there been any appeal court decisions on similar cases?—A. We class them consequential injuries. There have been some appeal court decisions on consequential injuries. I have not any particularly in mind just now, Mr. Green.

Q. You must run across a great deal of distress in just such cases where the widow finds herself cut right off from pension possibly with half a dozen children, the husband getting only a 50 per cent pension.—A. That is the most distressing class of case we run across, many of them.

Q. You are getting a great many of them?—A. We are getting a great many of them where a man dies and he has not a thing in the world and leaves a family of anywhere from two to seven or eight children, and the widow has nothing at all.

Q. Is there any way at all by which the children are provided for under such circumstances?—A. The only machinery we have for allowing them in is section 21.

Q. Do you use it very much for that purpose?—A. We do not use it for a case where that is the only circumstance.

Q. That is the special meritorious clause?—A. Yes; we do not consider it a special meritorious case simply because death is not related to service. Sometimes the service is not good; sometimes there are no meritorious circumstances at all, except that he left his widow and children with nothing.

Q. Are there any set rules to apply to determine whether or not a man's death is attributable to service in such cases?—A. Oh, each case is decided on its own merits, and apart from the medical end of it—I am not qualified to speak as to that, of course.

*By Mr. Hamilton*

Q. I have in mind in addition to results that possibly something in the nature of adding that where the death would not have occurred but for the effects of overseas service—it may be a difficult thing to define, but I have in mind another case where a chap was killed by a train. I am not suggesting in that particular case that he might have suffered effects to that extent, but if there were such things as bad hearing or defective eyesight or anything else that resulted from overseas service and which were really the sine qua non, to that extent possibly he should be entitled to consideration as a result of overseas service.

The CHAIRMAN: I suppose you know what you are driving at. If we are going to bring in legislation which says that every soldier who dies, died as a result of overseas service, then we are going to pension every widow. I would rather have a general pension for soldiers than for widows.

Mr. HAMILTON: Now they are cut off when the man dies?

The CHAIRMAN: I think that is the argument that made the United States pay pension for the war of 1812 in the year 1935. That was the basis of the argument.

Mr. MUTCH: That could not happen in Canada because you cannot get an allowance for a widow if the marriage took place after 1930, can you?

The CHAIRMAN: If we are going to bring in legislation like that we might as well leave it wide open and carry it as long as you like. There is just as much merit in the case where the marriage took place after 1930 as in the case where the marriage took place prior, and have it cover the 10 per cent, 15 per cent, 20 per cent or 50 per cent disability due to the war.

Mr. HAMILTON: All these decisions are difficult ones to make.

The CHAIRMAN: The whole act is wide open; you open up the whole class of married men, and not on account of any one particular meritorious case. You open up the whole class and you do not know what you will get.

Mr. GREEN: It will be 80 to 100 per cent.

Mr. CAMERON: It is partially covered in subsection 2 of section 32.

Mr. MUTCH: The whole distress seems to be with men who are on the border line, somewhere between 55 per cent and 80 per cent, and there have been a great many extreme cases during the last five or six years. They have been living practically on their pension and the pension suddenly disappeared. Most of the serious grief is on that basis.

*By Mr. Green:*

Q. Could Mr. Justice Taylor tell us whether the majority of these cases are pensioners over 50 per cent?—A. The majority of which?

Q. The majority of these cases arise from pensioners who are over 50 per cent pensionable or more?—A. No, I could not tell you that. Dr. Kee may be able to give you some information about that, but I could not. You raised, sir, a question about consequential injury. We admit those things now if we can get evidence to show that the injury was caused substantially by the man's disability.

*By the Chairman:*

Q. His death was caused—A. Yes, or subsequent injury.

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*By Mr. Hamilton:*

Q. Or death finally resulted because of a weakened condition or inability to survive the shock?—A. Yes; if we decided his death occurred indirectly from that disability; in other words, if it was consequential on his disability I think that claim would come in.

Q. That is fine.—A. We had a very similar case—

Q. The appeal court has not disagreed with you?—A. Not that I know of. We had a case only the other day from out west where a man had an injured leg and went to a church social; he got up to leave the church and owing to the condition that his leg was in, he had an accident, fell and broke his other hip. We put him on pension. It was clearly the result of his injured condition.

*By Mr. Cameron:*

Q. May I ask a few questions in regard to section 32, subsection 2? Why is that confined to widows only; why does it not include dependents like children?—A. There is another section relating to children.

Q. Has it the same effect?—A. No, it is different to this effect, that they are not subject to the ten-year limit.

Q. I was going to ask another question. Why is it confined to widows of veterans who have been in receipt of disability for not more than ten years?—A. There is another section that relates to children, and the difference between the two sections is the widows do not get any if he has had it for ten years or more, but the children do.

*By Mr. Green:*

Q. Have you had any question about the age at which children are cut off; as the act stands now it is 16 years for boys, and 17 for girls, is it not?—A. No, we have never had any suggestion that the age limit should be changed, but we have had a great many applications to extend it.

Q. Have you power to extend it?—A. Yes, we can extend it up to 21 years of age, and in case of mental or physical disability we can extend it indefinitely.

Q. On what basis do you extend it?

The CHAIRMAN: It is in the act, and extends the age to 21 under certain circumstances.

WITNESS: Section 22.

*By the Chairman:*

Q. If they are in school and doing well you have the right to extend it?—A. Yes.

Q. The most claims you get are where the children are in school and doing well, is it not?—A. There are two classes. There is the extension for educational purposes and the other class is extension for mental or physical disability. In the first class, for educational cases, we extend a very large majority of them. We do it not quite automatically but pretty close to it, if the family income does not reach the total of 100 per cent pensioner.

*By Mr. Reid:*

Q. Have the claims been higher over the past few years owing to the economic stress?—A. They have been very high; I have not compared them with years gone by, but they have been very high.

*By the Chairman:*

Q. You ask for a certificate from the head of the school, don't you?—A. Yes; they have to be making some kind of reasonable progress, but we have been very lenient with that extension.



*By Mr. Hamilton:*

Q. How far does that type of pension extend, right to the university?—A. We do not care about the type of education so long as the age limit is not exceeded. There was not any basis upon which that was worked at all two years ago; that is there was not anything to grant it upon; it was a case of extending it or not. So we put it on this basis that in any case where the pensioner's total income did not exceed what he would get if he had 100 per cent pension, we make the extension. If he has an income, either by earnings or from any other source that is over that, we do not make the extension; and that is the basis we are working on now.

THE CHAIRMAN: You follow that, rather than the phraseology of the statute which says: "Provided such child is following and is making satisfactory progress in a course of instruction approved by the commission, in which case the pension may be paid until such child has attained the age of 21 years." Of course, the other point is that those responsible for its maintenance are without adequate resources—we insist on that more than the other.

WITNESS: If they have adequate resources, we do not make an extension in any case; if they have not we are very free about making the extension.

MR. MACNEIL: What is the income?

WITNESS: We base it on 100 per cent pension. Supposing a man has a wife and five children, assuming they were all on pension, his income would be so much.

MR. REID: That is in the 100 per cent pension class?

WITNESS: 100 per cent pension is the same for a lieutenant and everybody underneath that. When you get up to officers of rank—captains and majors and so on—it varies; but lieutenants and everybody underneath that rank are in the same class as far as amount is concerned. Supposing that instead of being 100 per cent he was only 10 per cent, but he was earning enough money so that the income to his home from the people that he had to support was equal to what he would get for 100 per cent pension, that is where we draw the deadline. If it is less than that we make the extension; if it is more than that, we do not.

MR. REID: In the case of those ranks over lieutenant do you make a higher income?

WITNESS: Just according to the rate of pension.

THE CHAIRMAN: What about a major general?

WITNESS: I do not think we have ever had any cases.

*By Mr. Hamilton:*

Q. That will apply also to a widow and a child, I presume—the child of a widow going to school?—A. It would apply to a widow who was on pension and had a child going to school. If her income was not more than her own pension and the child's pension, we would extend it for her.

*By Mr. Green:*

Q. There has been quite a lot of discussion on section 52. Some representations were to the effect that the applicant should only be allowed to go before the Pension Commission once, and some believed that he should get a second bite. Others did not want any change from the present section which allows a man to go there as often as he wishes, so long as he can produce new evidence?—A. Section 52, as it is worded now, just keeps a merry-go-round. I do not think in any case have we refused to hear the man if a pensioner comes back and says he wants to strengthen his case until such time as he comes up for quorum hearing. In some cases the commission have written five, six, eight

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or ten decisions before they ever go to a quorum decision at all, but every time we write a decision we have to notify the man under that section that he is entitled to come again, or that he is entitled to go to a quorum, or he is entitled to go to the Pension Appeal Court.

Q. It is claimed they are getting better results by negotiating with the commission in connection with claims—that is, bringing in evidence as they get it and carrying on the whole proceedings as more or less of a negotiation with the commission; what do you say as to that?—A. I think that is true. I know we get a good deal of assistance by further negotiation. In that way we admit claims that we had refused before; but the difficulty with us is not so much a man coming to us so often, although I think there ought to be some reasonable limit on that, but the difficulty we are going to meet right now is a man going to a quorum so often.

The CHAIRMAN: What do you mean by saying "a man going to a quorum so often?"

WITNESS: I mean this. Men have been up for quorum hearings now for one condition and they have come back and applied to us for another condition, and we have refused them, and they have gone up to a quorum on that. Now, these men can keep on indefinitely under the present arrangement. They can come up and apply for some condition and we refuse them, and they have the right to go to a quorum on that.

*By Mr. Green:*

Q. Could not they do that no matter what legislation you passed if they are going on a different physical condition?—A. No. There should, in my opinion, be some curtailment of a man's right to quorum hearings. We do not object so much to him coming back to us because that does not cause any particular delay or incur any particular expense, but we think that when he asks for a quorum hearing in his own district, bringing in witnesses and that sort of thing, considering that we are now eighteen years away from the war, when he asks for a quorum hearing he ought to be prepared to go into a quorum with everything he has got, and not come back in a year from that with something else.

*By Mr. Reid:*

Q. What if something develops later? A man may be examined by four or five doctors and then he may have another examination the next year?—A. I know there is that difficulty. It can be avoided. The suggestion was that before he went to the quorum he should be given all the time he wanted to prepare his case and that he should be given a thorough medical examination in order to find out everything that might be wrong with him, but when he decided he was ready to go to a quorum he should understand that there is only one quorum hearing for him, and then there is the appeal court left after that. That is something we have been turning over in our own minds and we are giving to you for what it is worth.

The CHAIRMAN: You know of cases, don't you, Judge, where they have gone even to the appeal court three or four times on three or four different disabilities?

WITNESS: Oh, yes. Any case that can go to the quorum can go to the appeal court too.

*By Mr. Green:*

Q. Your suggestion would be that they be given every leeway in applying to the Pension Commission, but once they go to the quorum that should be final?—A. Yes.

The CHAIRMAN: Cumulate their case against the crown?

WITNESS: Yes.

*By Mr. Hamilton:*

Q. In as far as any evidence that might have been available at the time they went to that quorum is concerned, is it not a fairly general principle in civil law that a new trial is granted only where you can show that you could not have got the new evidence which has been discovered at the time of the original trial, and the court can give leave in that case for a new trial? I think that is a principle, and it might work here also?—A. I would not suggest that you should carry that principle as far as that in pensions. The Pension Appeal Court has not carried it that far in any application to them so far. All they have required—I should not say all—the principle requirement when a pensioner applies to have his case reheard is that he satisfies them that he has some real, substantial, new evidence to offer, and he generally gets leave.

*By the Chairman:*

Q. Even though he could have had it at the time he made his first application?—A. Yes.

Q. It is a departure from the principle of civil law?—A. Yes.

*By Mr. Green:*

Q. Do you think that should be restricted?—A. No. I would not restrict that in pension cases.

*By Mr. Hamilton:*

Q. How do you get at the element of finality that you suggest? As I gather, you suggest careful preparation, and the putting of a better case before the quorum when he first goes before it?—A. Yes.

Q. Then to safeguard what Mr. Reid suggests, that something might develop later on, there must be something left open. Could you get the finality that you wish?—A. Yes. You can always make provision for special cases. You cannot make any general rule, in my experience, in regard to pensions that will apply to every case; you have got to make provision for special cases.

*By Mr. Mutch:*

Q. Where would you put that discretionary power?—A. Well, the discretionary power now is in the Pension Appeal Court, as far as opening up all cases is concerned. We do not reconsider a case at all after it has been heard by one of our quorums.

*By Mr. Hamilton:*

Q. Before it can go back to a quorum in the way you have intimated, the parties must get leave of the Pension Appeal Court to make another application, even on different grounds?—A. Yes, they would, if what I suggest was carried into effect.

Q. But not as it is now?—A. Not as it is now, no.

The CHAIRMAN: As it is now, they apply for a sore thumb, and if they do not get it they could come back and apply for a sore first finger, and if they do not get that then they might come back and apply for some other finger.

Mr. GREEN: They could have a complete medical examination before they go to the quorum and make it difficult for a man to go back and apply for anything else.

The CHAIRMAN: There is nothing to prevent them.

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Mr. GREEN: I mean if Judge Taylor's suggestion were in.

The CHAIRMAN: Oh, yes.

Mr. HAMILTON: If I remember correctly, I think Mr. Bray suggested the other day that when they go back a second time to the commission the case should be sufficiently prepared to make that their final application to the commission.

The CHAIRMAN: I do not think Mr. Bray suggested anything about cumulation of the man's claim; all he suggested was that it should be thoroughly prepared on one particular disability. He did not suggest what Judge Taylor suggested, that you put all his disabilities into one basket, as it were, and go and fight for them.

Mr. HAMILTON: Mr. Bray suggested that he be not entitled to go back time after time to the Pension Commission.

Mr. MUTCH: On the same entitlement.

Mr. HAMILTON: On the same entitlement application.

The CHAIRMAN: This is entirely a different suggestion; this is that he has to put all his claims for entitlement in together.

WITNESS: We had a long discussion with Mr. Bray about the suggestions he made; he discussed them thoroughly with us; and his scheme of a man going back the second time to the commission with a well prepared case and then going on to a quorum is all right in a way. I do not know that we as a commission would raise any objection to that, but that is not the point that is bothering us. We do not care if the man comes back to us if he has some reasonable further evidence to submit, but the part of Mr. Bray's scheme that we were interested in is the quorum hearing, and that is where our expense comes in. Now, I think if a man comes along to-day and asks us for a pension and tells us that he has produced all the evidence he can produce and he wants to go to a quorum hearing and we say to him, "now, you understand that if you go to a quorum hearing that puts finality on your pension application; you can take your quorum hearing now or within a reasonable limit; you can wait and have it when you say you are ready, but there will have to be some reasonable limit, and we will give you a medical examination before you go to find out everything that is wrong with you now, but remember when you say you are ready for that quorum hearing that is your last hearing"—I think that would work out and save us a great deal of expense in the future. It has not been so bad in the past, but we are just reaching the stage now where these second and third quorum hearings are coming back. We would have to be protected, by leaving the door open, for a man to make a special application to us, because there would be cases, doubtless very worthy ones, that might arise in the future and could not be excluded.

*By Mr. Hamilton:*

Q. That would be final, except for permission being granted to reopen the case for certain conditions?—A. Yes. Vest that discretion in us, if you like—it would be handier than in the appeal court. We do not mean that we want to put a dead line on so that a deserving case cannot be taken care of later on, but we do want to stop this influx of duplicate and triplicate quorum hearings.

*By Mr. Reid:*

Q. If that were carried out would the case be covered in regard to diseases a man had or disabilities "incurred or attributable to"; or would you just have those diseases or disabilities under the heading of "incurred"?—A. Well, I do not know that I would be prepared to suggest any change in that. I think the door ought to be left open for a man who has a real genuine claim, but for some reason or other which had not arisen at the time he did not know about it when he took his quorum hearing.

*By Mr. Mutch:*

Q. Would that cover all those cases of diseases of slow and insidious onslaught?—A. I do not know what you would call them.

*By Mr. Reid:*

Q. There has been an opinion expressed in some quarter about leaving out "attributable" in "C" of section 11. I am not expressing exactly my own view, I am giving you the view that has been expressed and has a bearing on a man's case. If you look at the Pension Act you will see that in "A" pensions are awarded "in respect of which the application for pension is made was attributable to or was incurred during such military service." Now, if you go down to "C" you will see that, "an applicant shall not be denied a pension . . . ." and the word "incurred" is there, but the word "attributable" is left out. Now, the feeling expressed to me by many men was that if you view subsection C, along with 73 the benefit of the doubt does not work as well as if you viewed it with subsection A and section 74?—A. I would not like to express an opinion on that. I would like to give that matter some consideration in the way of differentiating between those two if you are going to do it. My remarks about leaving the door open for men to come back after a quorum hearing refer only to cases of men who served in a theatre of war.

Q. A man who served in an actual theatre of war might have no military sheets to show that his disability was incurred, but he might show that it was attributable to?—A. I am not at all in favour of shutting the door completely to the man who had service in a theatre of war. In some way we might get a safe application of that, and I think it could very well be done. We have that difficulty all along in the Pension Act, Mr. Reid. The way our Pension Act works out, it seems to treat a man who served in a theatre of war exactly the same as it treats a man who did not so serve; a man who never left Canada gets the same treatment as the man who served in a theatre of war, except in some cases.

*By Mr. Green:*

Q. Would you suggest that the benefit of the doubt section be changed to give the man who did serve in an actual theatre of war some preference; and that also has been before the committee?

The CHAIRMAN: Not that I know of. The only thing before the committee is to shut out the man who did not serve in a theatre of actual war altogether from making any further application.

Mr. GREEN: I think at one of our earlier sittings that suggestion was brought in—that the man who served in an actual theatre of war should be given preference over the man who did not.

The CHAIRMAN: I think one witness stated that he felt there was at the present time a preference in favour of the man who had not served in a theatre of actual war because his medical history documentation was more complete, but it was also felt that there was possibly a prejudice in the mind of the quorum and of the commission in favour of the man who had served in a theatre of actual war which about counter-balanced the other. But that was only a case; he did not know. I think either Mr. Topp or Mr. Bray said that.

*By Mr. Hamilton:*

Q. Has there been, speaking generally, a difference of view as to the proper interpretation of section 73 with regard to the benefit of the doubt as to the commission making their decisions and the Pension Appeal quorum—has there been a general agreement as to the method of applying that?—A. I could not say that there has been any difference of opinion between the Pension Appeal Court

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and the commission, but I have always thought this—I was told once that I would not say it in public, but now I am going to say it—I have always thought that section 73 did not give the soldier anything that a reasonable, decent administration of the Pension Act would not give him anyway. Any man trying to administer the Pension Act the way parliament intended that it should be administered would give a man everything under section 73 without that section being in the act at all.

The CHAIRMAN: You absolutely concur in the view of Colonel John Thompson. He said that. He said that there was no necessity for that section at all.

Mr. MUTCH: It comes back to the criticism which has been so general that this has continued as the result of the interpretation of the act rather than the faults in the act.

*By Mr. Green:*

Q. I would like to have an answer as to what Judge Taylor says in regard to section 73 in respect to a preference for the man who served in an actual theatre of war?—A. I think a deadline should be put on right away for everybody who did not. I do not know just what language to use, but it does look a little ridiculous to me at this stage to be granting pensions to men who had no service in a theatre of war.

*By Mr. Mutch:*

Q. Granting new pensions?—A. Yes, new pensions. I really think the deadline for those cases is overdue.

Q. The chief problem in all attempts to reach finality is to find some person or body willing to take the responsibility for the necessary reservation.

*By Mr. Green:*

Q. Do you think it would be sound if an alteration were made in section 73, to give the front line man the preference?—A. As far as I am concerned, yes. I think he should get the preference. It is quite natural. You cannot help it.

*By Mr. Hamilton:*

Q. Do the Pension Appeal Court review the whole case as if it had come before them for the first time for trial?—A. No. They can if this amendment goes through. There has been doubt in their minds as to whether they can do it with the act as it is now. That is really the only appeal there is. There has been some discussion here about appeal to the quorum, and calling that an appeal; that is really not an appeal. There a man gets a second hearing just like the first hearing, only a much better one, because he can bring his witnesses in and our quorums re-hear the case all over again from top to bottom.

Q. On what principle does the appeal court hear an appeal from the quorum—is it on the basis of going into it fully again or just reviewing the decision of the quorum as to the soundness of it?—A. Just reviewing the decision on the evidence that the quorum had before it, unless they re-examine some witness who has been before the quorum to elaborate on his story. They have been doubtful as to whether they had the right to call any new witnesses who were not before the quorum.

*By Mr. MacNeil:*

Q. If new evidence is produced before the court, is that case remitted back to the commission?—A. That is generally the practice now, rather than to consider new evidence.

Q. Is that done when leave is asked to reopen the appeal?—A. Yes. That sometimes happens right on the hearing of the appeal itself.



*By Mr. Reid:*

Q. No new evidence can be admitted before the court of appeal; is that correct?—A. That is substantially correct, Mr. Reid. The appeal court has, in a few cases, called witnesses back who had been before the quorum, and has re-examined them; but I do not think they have ever gone to the extent of calling new witnesses who were not before the quorum.

*By Mr. Hamilton:*

Q. Does the appeal court act on the principle that the decision they reversed is one that was an improper one, or simply a decision that they would not have made themselves if they had been trying the case?—A. I had a short experience in the appeal court, and I think I would say if I answer that that they would base their decision on the ground that that evidence was not sufficient to establish entitlement.

The CHAIRMAN: How long were you in the appeal court?

WITNESS: I was there from November, 1933, until April, 1934, as ad hoc—I think I am still an ad hoc member. I do not think my appointment was ever cancelled.

*By Mr. Hamilton:*

Q. All I wanted to satisfy myself on was this: Does the appeal court act on a general principle with reference to appeal courts—not that they would put themselves in the position of a trial judge, but rather they would not over-rule the trial judge's decision unless they felt it was one that could not reasonably have been given. Is that the principle they go on, or do they simply put themselves in the position of the trial court?—A. Well, I would rather that you asked Judge Hyndman that. He can answer that much better than I can. I would really prefer not to answer it at all.

*By Mr. Green:*

Q. What do you think of this dead line set up by the new section 12A?—A. What is that, Mr. Green?

Q. For those who did not serve in a theatre of actual war, the deadline will come into existence on the passing of the new pension act, and for the others on the 1st of January, 1938?—A. Well, I am quite in accord with that deadline for those who did not serve in a theatre of war, only I think it should have been put on the day the minister announced his resolution in the house.

The CHAIRMAN: Instead of?

WITNESS: Instead of when the act goes into force. The result is that we are just flooded with applications from people trying to get retroactive pension through before this bill becomes law—trying to get their applications in, and it applies to retroactive cases as well.

*By Mr. Green:*

Q. What about a deadline for the front line men; are you in favour of that?—A. Only with the provision that you leave the door open for meritorious cases; that we can let them in by leave.

The CHAIRMAN: By leave either to the Pension Commission or to the appeal court.

*By Mr. Green:*

Q. Don't you think that is apt to work a hardship on the front line men?—A. Well, all I can say is that it would not work a hardship if the application came before me.

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Q. That is the trouble; it might not come before you. It might come before somebody else?—A. I am not fussy at all about the deadline on the men who served in a theatre of war. I think we ought to have a deadline somewhere so that we can see the end of our pension problem. The British have had it on now for over ten years. But I do not want to squeeze out anybody who had served in a theatre of war and who has a real pension claim, and I do not think you would either. I think if you put a deadline on and leave the door sufficiently open so that they could consider applications that were meritorious, that would be fairly satisfactory.

Q. Whom do you think should decide whether or not the application should be considered as meritorious?—A. I think the commission should decide.

Q. Not the appeal court?—A. Subject to appeal to them, but I think the application could be more simply made to the commission.

*By Mr. Mutch:*

Q. Is it at present subject to appeal?—A. Which?

Q. The decision of the commission?—A. There is no deadline on now, so we do not make any decision.

*By the Chairman:*

Q. The whole question at issue is to decide whether the appeal court should have the right to give leave to apply to the commission, and Judge Taylor's opinion is it should be the commission. At the present time anybody whose case has reached finality and wants to re-open it must go to the appeal court. I am right on that, am I not?—A. Yes.

*By Mr. Hamilton:*

Q. Is the purpose of the deadline, not having defined the term meritorious, to encourage people who may have a pension claim to get it in immediately?—A. No, not that, although you would be surprised to know the percentage of applications that are coming in now from men with long service in France.

Q. Is that because of any deadline?—A. No; just the ordinary run of our applications. I was asking the pension advocate in Winnipeg the other day and he showed me a list covering last year or two years. Do you know 85 per cent of the men that he had before the quorum during that time had long service in France; more than the average service in France.

*By Mr. Green:*

Q. Is very much to be gained by putting a deadline on?—A. Yes, there is this, it shuts out worthless claims of which we are getting quite a lot. For instance, with a deadline, if a man came in with an absolutely worthless claim we could just refuse him leave and that would end it, and we could still admit the meritorious claim.

*By the Chairman:*

Q. As it is now, no matter how worthless a claim is, the man can go through the whole process?—A. Yes.

Q. The man can go right up to the appeal court, bother everybody and possibly block the procedure for more meritorious cases?—A. Yes. But up to date the man that did not serve in a theatre of war has had the best of it so far as the pension act is concerned; and I think it is about time the man who did serve in a theatre of war did get the best of it.

*By Mr. Hamilton:*

Q. Would you leave it to the discretion of the pension board or the appeal court as to what constitutes meritorious cases?—A. Under our present section—

Q. Either the present section, or would you suggest leaving it discretionary with them?—A. If you put the deadline on theatre of war cases I would provide that an application made to the commission be admitted in special cases, and if the commission refused it automatically there would be no harm to give him the right to appeal to the pension appeal court direct, like you do under section 21.

Q. You would not attempt to define what was a special case or a meritorious case?—A. No.

*By the Chairman:*

Q. You would not make it so restrictive anyway as section 21?—A. No.

*By Mr. Green:*

Q. If you give him an appeal then the worthless case may appeal too, and you would pile up the machinery just the same?—A. You cut out the quorums and the quorums are our big expense now in pension cases.

*By the Chairman:*

Q. I presume that it would be easy to make his appeal within a reasonably short delay?—A. Yes.

Q. If he did not make it within 60 days he would be out, something of that kind? There would not be very much trouble in giving him the appeal. Personally, I do not think we should give him an appeal. I would not give him an appeal myself, at all.

Mr. GREEN: The appeal would not be very effective anyway.

*By Mr. MacNeil:*

Q. I should like to refer to subsection B of section 27 in regard to retroactive pensions. I should like to know how that applies to pensioners receiving a pension for one particular disability and later establishing entitlement to another disability. Does the rule apply that retroactive pension is paid only six months prior to the date of application?—A. Payment in every case, Mr. MacNeil, is made under section 27, when you come to payment. Now, you see there are three periods set out in section 27: One is the date of discharge, the other is the date of discharge from hospital, and the third one is six months prior to his application or from the time the disability actually appeared, whichever is the later date. It has been thought for a long time that pension should be paid from the date of application. The real date is six months prior to application, not the date of application. And they are all paid on that basis. I do not just know what you mean by the retroactive feature. Perhaps you will explain that?

Q. I have in mind a man who is on pension and he has received that pension from the date of discharge for something like a sciatica condition. He has another trouble, but he does not make application for pension, but establishes entitlement later. It may be reasonable to assume that the department should have discovered the existence of the second disability. It is rather unfair not to make a retroactive adjustment beyond the six month period prior to the date of application. Could it not be held that the pension for the one disability was an application for a consideration of all disabilities?—A. Well, there are just the three periods in the act, Mr. MacNeil, hospital discharge, or discharge from the army or six months prior to the application or when the disability appeared, whichever is the later date. I am really hard-boiled about this retroactive payment of pensions. It has been a bugbear to me ever since I came here.

*By Mr. Green:*

Q. Why is it?—A. I do not know just why it is; but I feel a revulsion to paying out so much retroactive pension. I think it is contrary to the funda-

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mental principles of pension that a man should be allowed to accumulate pension over years and years, and then come and ask to get paid all the way back. You can justify it under the act. We would not pay it if we could not justify it.

*By Mr. MacNeil:*

Q. If during the period he suffered extreme disability or possibly incurred expenses for considerable medical treatment, is there any sound justification for not paying him? Should he not be reimbursed for that?—A. Yes.

*By Mr. Reid:*

Q. Would it have any bearing on the final decision of giving a man a retroactive pension if the case was favourably considered?—A. No, I do not think it would affect the decision, Mr. Reid, as to entitlement. I would not like to think that about anybody, either the commission or the court. But I know this, that every time a claim comes before me involving a whole lot of retroactive pension, the point looms up in front of me. You cannot help it.

*By Mr. Hamilton:*

Q. May there be a distinction where a man has been trying to get a pension for some time past and what is just a fresh application?—A. Yes.

Q. In other words, where a man has been endeavouring for some time to get a pension there would not be any feeling that he was not trying to get a pension in the past, and he should get retroactive pension?—A. I do not have any hesitancy about a case like that at all, providing he has reasonably pursued his application and it has been our fault that he has been refused. I have always thought that a man should get paid his pension from the time that he has reasonably established his entitlement. Really a soldier has not very much to complain about, if you pay him pension from the time he asks for it. If he does not ask for it, he has not very much complaint if you do not pay it. But the kind of retroactive pension we are getting nowadays is a lot of the men who have been on pension for years, and they are coming back up there and saying, "I have been paid a pension since 1930, but I have had this thing ever since 1923, and I want payment all the way back for that."

*By Mr. Thorson:*

Q. There is no authority for making the payment?—A. Yes, there is.

Q. It does not date back to the discharge?—A. If he proves—

Q. Unless he made an application?—A. Yes, but you know we have been considering almost everything as an application for pension. This is how they may arrive at the date: I mentioned 1923. He established probably he went to some district office and complained in 1923, and there is a record that he was there.

*By Mr. Reid:*

Q. You accept that as an application?—A. Yes; we have been giving very liberal benefit as to the date of application.

*By Mr. Hamilton:*

Q. Do not most retroactivity cases only go back to the date when you first considered he made an application?—A. No; as it stands to-day a man can still get retroactive pension right back to the time of his discharge, even though he were discharged fit, providing he can establish that the disability was there when he was discharged.

Q. Even though he has not applied for it until the last few years?—A. Even though he has not asked for it until yesterday, and even though he was discharged fit, if he can prove that the disability was there actually when he was discharged.

Mr. THORSON: Can he do that?

*By the Chairman:*

Q. Even though the medical history on discharge would not show any disability whatsoever?—A. Yes.

*By Mr. Green:*

Q. Do you suggest that all pending applications should be made subject to this new retroactive clause?—A. It would not hurt my feelings a bit if you did.

Q. Would you say that was fair?—A. You cannot correct mistakes of the past, of course. My idea was that if you put the deadline on the retroactive pension, you should put it on on the date the minister made the announcement in the house that he was going to do it. Then nobody is getting in the back door afterwards.

Q. If a man had filed his application before the minister made the announcement the new retroactive provision would not apply to his case?—A. Well, I would be inclined to say if it had not been paid up to that time.

*By the Chairman:*

Q. As it is now, he will no longer get retroactivation after the act has been signed. Any judgment given after the act has been sanctioned will not carry retroactivation, and any you pay up to that time will.

Mr. MUTCH: The hardship will be no worse that way.

The CHAIRMAN: It means they have three months left, that is about it.

Mr. GREEN: Take the man who has filed his application and it is not yet adjudicated. Why should he be cut off?

Mr. MUTCH: There is going to be hardship anyway. It is no worse than the man who has got just as much entitlement but has not applied yet.

Mr. THORSON: Is the proposed amendment in the bill against retroactivation being paid in respect to applications already made?

The CHAIRMAN: I will tell you quite frankly the idea was that this bill would go into effect on the 1st of August or the 1st of July, whatever date the committee thinks fit, and let it go at that; everything would start from there.

Mr. THORSON: The point Mr. Green raises is that certain statutory rights may have been acquired by those who have filed their application for pension and it might be wise to give retroactive effect to the proposal in the bill.

The CHAIRMAN: I do not think you could do that legally; I don't know.

Mr. THORSON: That thought just occurred to me.

Mr. GREEN: The point I am making is this: It hardly seems fair to deprive an applicant of his present rights by making this section you are passing now apply to cases where there has already been an application made. If the man has not applied for pension, then I suppose it is all right that he should not be given retroactive pension. Surely those who have applied before you made your announcement should not be cut off.

Mr. EMMERSON: Take a man who made his application for disability and proves it, and because of some oversight the original diagnosis was incorrect, and he proves it was incorrect. Should he not be entitled to retroactive pension from the time he made his application?

WITNESS: Well, the whole subject of retroactive pension involves a terrible lot of difficulty, I know. You cannot put a deadline on anything but what you are going to do somebody an injustice. For instance, the man who got

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married on the 30th April, 1933, gets an additional pension; the man who got married the next day does not. There is no rhyme or reason to it. You just put the deadline on there; that is all.

*By Mr. Green:*

Q. I think this should be the guiding principle; whether or not a man made his application. I think that is what you said a few moments ago?—A. Yes.

Q. Would not that be the fair test in this question of retroactivity?—A. I do not think I suggested that as the test, Mr. Green. That is in the act. That is section 27, the date of application. You see, retroactive payment is the thing that is there. Under our pension law the man is entitled to it; if he was not entitled to it, he would not get it. But yet it works out in a way that I think it very unsatisfactory. I think we were wrong in the first place in ever making provision for payment of retroactive pension. That is done; you cannot undo it. But in the first place a lot of retroactive pensions paid out in a lump sum very often does more harm than good, not only to the soldier but the people cannot understand it. They cannot understand why a soldier should be getting a cheque nowadays for \$1,000 or \$1,500 or \$2,000, and it causes criticism in that respect. You can say it is unfair to exclude a man who has already his application in, and I admit it is. The man who has his application in there is entitled to some consideration, but when you get down to the real equity of the case, what more is he entitled to than the man who came along the next day after the deadline.

*By Sir Eugène Fiset:*

Q. Is it not a fact sir, that you said a moment ago that you were flooded with cases of that nature since the pronouncement was made in the house?—A. Yes; half of our time over at the commission to-day is taken up by claims coming in of men asking for all sorts of retroactive pension.

Q. And it is your opinion that retroactivity should take place at least from the date of the pronouncement of the minister?

The CHAIRMAN: It cannot be now, of course.

Sir EUGÈNE Fiset: Why not? The bill is not passed; it was simply introduced in the house.

WITNESS: I cannot get away from the fact that is the fairest time to put it on, because you do not give anybody the chance to run and get an application. You treat everybody alike.

The CHAIRMAN: It means that anyway. The bill taken as it now is means that only the applications which will receive retroactive payment are those on which decisions will be given up to the time this bill is proclaimed; that is all. After the bill is proclaimed they are out.

Sir EUGÈNE Fiset: You realize, sir, the number of precedents you are going to make in view of the voluminous applications received by the commission from the date of pronouncement up to the present time, or when the law is promulgated. By these precedents you will be creating more harm than good. I venture to say the commission must be receiving thousands of applications up to the present time.

Mr. MUTCH: That is one case where retroactivity seems justified. Make the deadline before any of these people have taken advantage of your speech and got in.

Mr. THORSON: Make the deadline when the changed law comes into effect.

Mr. HAMILTON: I doubt if the date of application should be a test at all, because you can go back indefinitely to all different types of pension regulations



and pension law operating from time to time and find different dates for application, dates put ahead from day to day and month to month, and you get into an unlimited amount of difficulty that way.

The CHAIRMAN: If there is not any merit in giving retroactivation it has got to be ended somewhere, otherwise there is not very much sense to it, because pretty nearly all the applications that are going to be made are made anyway.

Mr. REID: I think I can see a great deal of trouble with those cases that are not adjudicated before the bill becomes law.

WITNESS: That is what we are having now. That is exactly what we are getting now.

*By the Chairman:*

Q. Would you think sir, if we said we would give the commission discretion to give retroactivation for 18 months and cleaned up in a year or so, or any stated period, instead of cutting it right off, would that not help? Let us say it will be in the discretion of the commission to give retroactivation for one year from the date of entitlement.

Mr. BROOKS: There was no retroactivation principle in the British act when they made the deadline?

The CHAIRMAN: No. They made the deadline by statute. We had a deadline right along until 1930; don't forget that. During a period of time the pension commission was actually awarding pensions when they had no legal right to do so. I think that period lasted for six months, did it not Dr. Kee? Parliament postponed from year to year the deadline? It started I think in the first pension act and it was three years from the date of discharge, then five years. The time limit has been changed to my knowledge, at least four times, probably five times.

Mr. THORSON: It was seven, and then it was nine, and then it was taken off altogether.

The CHAIRMAN: In 1930 it was taken off altogether, and all claims already heard were allowed to come in again, so the deadline is nothing new.

Mr. HAMILTON: You suggest that the commission should have discretion for 18 months? Does that mean discretion to deal with applications that are put in within 18 months, or decisions actually made?

The CHAIRMAN: If it is a particular case of hardship or any other kind, go at least 18 months back, or maybe a year, whatever date was fixed by the committee, and we should avoid all this trouble, or at least a great deal of it.

WITNESS: Yes; I would suggest, Mr. Minister, that the general deadline should be put on say at a year, or 18 months, but in special cases the commission should have the discretion to go a certain period back farther than that to take care of certain cases. For instance, in the last few years we have had men waiting for a quorum hearing for two or three years. That is not their fault. We ought to be able to consider cases of that kind.

Mr. REID: That would avoid that trouble.

*By Sir Eugène Fiset:*

Q. Who is going to decide it is a special case?—A. The commission.

The CHAIRMAN: Give discretion to the commission.

Mr. REID: Every applicant from now on would have an equal chance.

The CHAIRMAN: The terms of the bill as it now is say you cannot get a pension except from the date of entitlement, that might be unfair, because some poor man, as Judge Taylor has pointed out, may be waiting for a hearing for two years. But the great difficulty with which we have had to contend is giving retroactivation back twenty years, and that is what is happening, is it not?

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WITNESS: It is happening over a long term of years.

Mr. HAMILTON: Eighteen months would stop all applications presently pending.

The CHAIRMAN: As long as there is a limit, and the judges know they can go back a year or 18 months, it will be all right.

Mr. HAMILTON: It is suggested that the applications in prior to the announcement in the house should be on the old basis and go back 20 years. That is not your thought now?

The CHAIRMAN: No.

Mr. HAMILTON: It would be limited to 18 months?

The CHAIRMAN: Any decisions given from now on, until such time as we passed the bill as amended or whatever date the bill was introduced—we cannot do it until the bill is passed. As it is now the commission must necessarily follow the law as it is laid down in the act. We cannot legislate for what judgment they are giving. Any judgment they give that way would be contrary to the act.

Mr. REID: Would it be safe to say that the person applying would rather obtain the pension than the retroactivation?

WITNESS: I think Mr. Reid, he would. I certainly think it ought to be. I would go any length to help the man to establish his claim to pension, but I am pretty balky if he comes back and asks me to pay him 10 years or 15 years back. I had a letter this morning from a man that we gave a pension of 10 per cent from 1930 and gave him 5 per cent after the date of discharge, and he is not satisfied. I had a letter from him this morning and he says he wants 10 per cent back to the date of his discharge.

*By Mr. Cleaver:*

Q. Have you a moment to spare to discuss the question of legality of marriages, the point I spoke about the other day?

The CHAIRMAN: Ask Judge Taylor; I am sure he will be glad to answer you. Do you want it off the record?

Mr. CLEAVER: No; I should like it to go on the record.

*By Mr. Cleaver:*

Q. My request is that the present act should be amended by adding a new subsection to section 32. Under the section as it now stands, the commission can at any time question the validity of a man's marriage. The matter was drawn to my attention and it was a very distressing case. A comparatively young woman married a returned man in good faith, lived with him as his wife for something over ten years, and during that time received a pension as his wife. Then, after his death the commission questioned the validity of his marriage. After all, the best years of her life were given to this man. Then the validity of this man's marriage was questioned, and my suggestion is the act should be amended by adding this clause:—

A woman who has gone through a form of marriage with a member of the forces, and who was living with such member of the forces at the time of his death shall, for the purposes of this act, be considered his lawful wife and the legality of the said marriage shall not be open to question unless it has been questioned and set aside during his lifetime.

*By Mr. Green:*

Q. I was going to ask about section 14 of the new act which gives the appeal division the power to decide whether or not an applicant should get a compassionate allowance?—A. That is Bill 26.

Q. Yes. It takes the power away from the commission and gives it to the appeal division. What do you say about that?—A. I think it is much better left to the commission.

*By Mr. Hamilton:*

Q. Are there many cases such as Mr. Cleaver mentions where women, who through their husbands or alleged husbands have been in receipt of pension during his life, have been held not entitled after death on the ground that the marriage was not a valid marriage?—A. No. I think—I am sure I could count them all on the fingers of one hand.

*By Mr. Reid:*

Q. Have you had any applications from women living in any other country saying, "I am the wife of John so and so, and I should be receiving a pension?"—A. Yes. We had an Armenian case down in Toronto where that happened. She came along years afterwards. Well, he is not dead. He is in a mental institution.

*By Mr. Hamilton:*

Q. Do you think if the commission had greater discretionary powers in these matters it would work out more fairly, speaking generally?—A. Yes, there are lots of cases I have had to throw out that I would have been glad to have left in; but, after all, I think a soldier ought to observe the marriage laws of his country the same as anybody else. I do not think he is entitled to any special latitude in that respect.

Q. Are there not cases in which you might have felt inclined to use discretion if you had had it, favourable to the applicant?—A. Yes.

*By the Chairman:*

Q. Is there not a section whereby you can cut off the pension if a woman is not behaving herself?—A. Section 39.

*By Mr. Cleaver:*

Q. Don't you think, as a matter of principle, that if the validity of a marriage is to be questioned it should be questioned during the soldier's life time?—A. Certainly. That marriage we talked about should have been questioned the minute it took place, when the man got his application for additional pension for that woman.

Q. Then, would you have any objection to recommending that the act should be amended as drafted there—that the legality should be questioned before the death?—A. I do not like to make any suggestions about that. The marriage question is a terribly ticklish thing to ask any parliament to touch in the way of legislation.

Q. This is an extreme case, and the town is up in arms about it.

*By Sir Eugène Fiset:*

Q. Even if the act were amended, would you feel that you could under all the circumstances grant that case?—A. I have been requested to let it in under section 21, and I have refused.

*By Mr. Reid:*

Q. Is not the principle the same as you annunciated the other day, that once the crown had made a mistake in a man's pension you continued the

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mistake?—A. If we found them in the same position, Mr. Reid; but when I came down here these marriage cases were all in a flare and they were on my doorstep and I had to deal with them.

Q. It is the principle I was dealing with. They paid the pension to the woman when the man was alive?—A. There were lots of cases investigated before I came here. If I had been here, they never would have been investigated; I would have let them pass as long as the record was clear on the file, and I am doing that now if the record is clear on the file. I do not go looking for anything to make trouble for them.

*By Mr. MacNeil:*

Q. Might I ask what is the policy of the commission in regard to the interpretation of self-inflicted wounds. Is there any distinction made between those which were wilfully made and negligently made?—A. When that point first came up our quorums had admitted two or three cases where men had been convicted, not of wilfully wounding themselves but of negligently wounding themselves under that old clause, "conduct to the prejudice of good order and military discipline," and they were appealed; the reviewing officer appealed them. And then the point came up, and I started to investigate what had been done in the past, and I found there had been a lot of cases where soldiers had been convicted under this section and got a pension, and a lot of them were off. We were in a terribly inconsistent position in regard to it. I took the attitude that I would not put on pension, from that time on, any man who had been convicted by court martial of wounding himself, whether negligently or not.

Q. Was that because of the finding of the appeal court?—A. I knew those cases were going to the appeal court and I felt safe, but my decisions were that we would not put any more on pension where they had been convicted of negligently wounding themselves. The matter went to the Pension Appeal Court, and they gave their decision which simply meant that nobody else could get on under those conditions. We have not taken those off that were on.

*By the Chairman:*

Q. May I ask this question: in connection with the amendment, in so far as it goes it is all right—"improper conduct includes wilful disobedience of orders, self-inflicted wounding and vicious or criminal conduct." What about those particular cases to whom you did not award pension owing to the decision of the appeal court, or the pending decision of the appeal court? What is going to happen to them under this section? Should we make it retroactive in order to cover them?—A. It will have to be made retroactive. There will have to be some such rider.

Q. We will have to put some such rider in the bill?—A. It will be only fair to say that the section must be read as though that had always been in.

Q. That would allow you to reopen any of these cases if anybody makes a claim, and judge them on their merits?—A. Yes, the amendment as it is in the bill now will put every man on pension for self-inflicted wounding, except the man who has been convicted of wilfully wounding himself.

Q. I never served on a court martial. Would a court martial condemn a man for wilful self-inflicted wounding? Take the case of a man who shot himself to get away from the front line—shot his toe off—do you know what the decision of the court martial was?—A. Whether it was wilful or negligent?

Q. Yes.—A. Well, they convicted of wilful wounding if the evidence clearly established it. I served on quite a number of courts martial in France, and the instructions that went out were that it was difficult to prove wilful wounding and that the double charge should be usually laid, wilful under section 18 and negligent under section 40. As a matter of fact, all the convictions I have come across of our men were under section 40 for negligent wounding; I have not run across one for wilful wounding.

Q. Are we allowing any cases which, if the circumstances were looked into, would be cases where the man was not entitled to a pension at all because he shot himself for the reason that he was scared to go into the front line?—A. Yes. I think you would allow in some cases like that.

Mr. HAMILTON: It would be a terrible thing to open it up wide, but they are not necessarily bound by that.

The CHAIRMAN: "Improper conduct includes wilful disobedience of orders, self-inflicted wounding and vicious and criminal conduct."

Mr. HAMILTON: Not necessarily by the finding of a court martial overseas.

*By the Chairman:*

Q. Could the commission go beyond the finding of negligence if we use this phraseology?—A. No. I would not do that, because I think it would be eminently unfair to a man to convict him under that section, 18 years after the war for something that had happened during the war.

*By Sir Eugène Fiset:*

Q. May I ask if the proceedings of the courts martial in any of the cases you had to deal with were available to you as evidence?—A. We can get them. I think, perhaps, there were decisions recorded in the earlier days before they had those. Unless a man has been convicted by court martial, we do not consider it a self-inflicted wound. We are not going to say now that it is self-inflicted if the man was not convicted by court martial.

*By Mr. MacNeil:*

Q. In the proceedings of the courts martial in France was consideration given to the man's mental condition at the time? There were many cases where a man had an excellent record, but after a lengthy period out there in the front line he had a moment of mental aberration and wounded himself. Would consideration be given to that fact during the hearing in France?—A. I do not know; but I know this, there were cases where men were convicted of negligently wounding themselves, and for more serious crimes than that, and they have gone back into the line and distinguished themselves in service and were even decorated for it.

*By Mr. Hamilton:*

Q. Something was said here the other day. We were discussing the maltreatment of prisoners. Might I ask if a disability arising from maltreatment in the case of a prisoner of war is considered a pensionable disability to the extent that it arises from maltreatment?—A. Oh, yes. I do not think there would be any question about that at all. You see, anything that happens to a man on service—

Mr. GREEN: Prisoners of war seem to be working under pretty serious difficulties.

WITNESS: Yes, some of them are.

*By Mr. Green:*

Q. What would you suggest as a means of helping them?—A. I do not think there is anything you can suggest in the way of a rule of thumb.

The CHAIRMAN: Can he be helped under the Pension Act?

WITNESS: Yes. I think it is a question of sympathetic consideration. Any commissioner deciding a case like that ought to take into consideration that that man could not be expected to prove a case like that.

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Mr. STREIGHT: He does not get it.

WITNESS: Well, I can only state my own opinion.

*By Mr. Hamilton:*

Q. What is his handicap before a pension tribunal—the fact that he has not got a medical history while in Germany?—A. He is in the same position—only to a greater degree—as the man who served in France. The man in Canada and England, every time he got a cold, went to hospital, and there is his record as complete as can be; whereas the man who served in France barked around all winter and he never saw a dressing station, and there is no record at all. In the case of a prisoner of war, it is very seldom that there is a record, unless he went to a hospital in Germany. We have been able to obtain some hospital records from Germany of men who were in the hospitals there.

*By Mr. Green:*

Q. What could you not prove maltreatment there?—A. No, except by the man's own words.

Q. Would it help them any if they were given special protection under the benefit of the doubt clause?—A. I do not know how you could do that. I would say offhand it is a thing that you have to leave to the sympathetic consideration of the commission, because it is very hard to make any rule for it.

*By Mr. Hamilton:*

Q. Are there any prisons in Germany that were notoriously given to maltreatment that would assist in generalizing the situation?—A. I do not know. I have not had—General McDonald tells me that there are histories available of the treatment accorded prisoners in camps in Germany.

Mr. STREIGHT: In most of the prison camps in Germany if a soldier took sick there was nobody to attend to him and he stayed in his bunk and his comrades looked after him. If he died, all right. I have known men to lie there for three months—lying in their bunks. There is no record of that.

WITNESS: No. But there are some cases where we can get hospital records.

*By Mr. Hamilton:*

Q. Would there be anything in the nature of an inquiry into prison conditions over in Germany?

The CHAIRMAN: The war office has all that.

General McDONALD: We can get a certain amount of general information about the various camps and the type of treatment accorded to prisoners in those camps at various times.

Mr. HAMILTON: But that is from the German point of view.

General McDONALD: It is in the war office. At certain camps prisoners were harshly treated. Certain of them had records for certain times. There was an inquiry conducted.

The CHAIRMAN: Who conducted the inquiry—the British War Office?

General McDONALD: Yes, the allies.

WITNESS: Section 73 is wide enough now to give these cases all the consideration I can suggest.

*By Mr. Green:*

Q. What about section 24? Could it be broadened at all?—A. That is just a general section; that covers the extent of the disability. That is all that relates to.



*By Mr. Hamilton:*

Q. Have you any idea, roughly, as to the number that have been disallowed who claimed that type of disability?—A. No. I do not know whether we have any statistics of that kind or not. We might have.

The CHAIRMAN: I think we can get them from the department. I think the Militia Department probably has the number of prisoners of war, and we could get from the Pension Department the number of prisoners of war who are now actually on pension.

General McDONALD: It would take some time.

Sir EUGÈNE FISET: I was under the impression that we could apply in very special cases to the war office and they would undertake to investigate these cases either in Germany or England and make available to the commission all the records they had available.

General McDONALD: Yes, they would make available all the records; but as Colonel Streight says in many cases the records are very meagre.

Sir EUGÈNE FISET: Still, the war office is willing to investigate any special cases that may be submitted to them either by our External Affairs Department or the Department of National Defence or even the Board of Pension Commissioners.

General McDONALD: Oh, yes. They have done that quite often.

*By Mr. MacNeil:*

Q. May I ask as to the status of foster children under the act?—A. They have not been admitted.

The CHAIRMAN: Adopted children?

WITNESS: No, except in a few cases. For instance, in one case I remember a soldier's brother died and his wife died in childbirth, and the soldier took the child and raised it. We gave him additional pension for that child. We thought it was a thing that any relative would have to do. We have given soldiers additional pension where a member of the family got into trouble and had a child and they have taken the child and raised it.

*By Mr. Hamilton:*

Q. After the death of a pensioner does the rule hold good with reference to children that they must establish their right to pension even though they had it during the soldier's life?—A. After the death of the soldier the pension is paid to the widow, if she is alive, and she gets additional pension for the children.

Q. And there is no question, then, as to the status of those children?—A. Oh, no. If there was any trouble owing to a marriage question we put them all under section 22 (4).

*By Mr. MacNeil:*

Q. If the adoption was legalized prior to a certain date, would there be any substantial objection to recognizing them?—A. An adopted child can be recognized now, but the commission has never done it in the ordinary sense when a soldier goes out and adopts a child and brings it into his family. In certain cases we let them in under special circumstances. They could be let in under section 22 (4) just as we have let in the married people, but the commission has never done it and I have never done it.

Q. Would you ease to give the reason for excluding them under this section?—A. I do not know what the old reason was. I thought it was a very reasonable practice, and I followed it. I do not know that I ever thought out why. I suppose the idea was that a soldier should not go out and bring in other children. We would like to help him look after his own children, but he should not look after others. That is the only reason I can think of.

[Mr. Justice F. G. Taylor.]

*By Mr. Green:*

Q. I referred to section 24 a moment ago, but I should have referred to section 11. Could any change be made in that section?—A. I really do not know any reason for keeping adopted children out other than I have told you.

Mr. MACNEIL: I know of some special cases where the claim seems to be reasonable.

WITNESS: Yes, I do too; but we either have to keep them all out or let them all in.

*By Mr. Green:*

Q. I am referring to section 11 instead of section 24. Could any change be made there which would include maltreatment?—A. To help the prisoners of war?

Q. Yes.—A. No, I do not think so, because it is not a question of there being any doubt as to a soldier's entitlement to pension for maltreatment. It is his difficulty in establishing the maltreatment. That is the difficulty. If he came along for pension and established that he had a disability by reason of maltreatment while a prisoner of war we would pension him for it because it occurred on service.

Sir EUGÈNE Fiset: All you can possibly obtain is his sworn affidavit that he has been badly treated.

WITNESS: Yes. That is usually all. Sometimes we can get men who were in the same camp with him. I had a case of that kind in the appeal court where a man had an actual injury by being struck with a rifle. I think it was admitted.

The CHAIRMAN: The only way you could admit them holus bolus is to give a presumption in favour of the prisoner of war. The fact of his disability to-day is a presumption that he acquired this disability owing to maltreatment in Germany. That is about the only thing you could do to meet the wishes of those fellows.

Mr. HAMILTON: I was wondering how many are involved. Might not you take a group who were in a certain camp and hold a hearing. I am not referring to new ones, but the people who have made application and have been turned down. Take the whole group together and get evidence with reference to that particular camp.

The CHAIRMAN: Or send to Germany for it. The allied commission did all that.

General McDONALD: Yes. They had a certain amount of information.

Mr. HAMILTON: Colonel Streight was in the camps there. Other officers have been in camps as well as n.c.o.'s and the rank and file. You would think they could establish something at least in a fairly general way—in a fairly dependable way as to whether the nature of the treatment was such in that camp at a certain time that these results might reasonably be inferred.

The CHAIRMAN: They are reasonably inferred, but you must establish a direct presumption in the act. You would place in the act a presumption that somebody who was in such and such a camp who is now suffering from heart disease acquired that heart disease from maltreatment. I do not know how you would go about it.

Sir EUGÈNE Fiset: There is the other side of the case. Germans who were interned here in Canada and returned afterwards to Germany have made exactly the same claim that our Canadians are making, and they have written to the Militia Department and asked what kind of treatment these people received in the camps.

Mr. HAMILTON: If we have to go by records it is not much use.

The CHAIRMAN: Are there any further questions you wish to ask the Pension Commission?

*By Mr. MacNeil:*

Q. I would like to ask a question of Judge Taylor. What would be the effect of deleting from section 11, subsection B, the words, "or was a congenital defect"?—A. I will discuss that with Dr. Kee during the adjournment. He would have a better opinion.

Mr. GREEN: I would like to hear about the appeal board. It would be interesting to get the judge's view of the proposed appeal board.

Sir EUGÈNE Fiset: He has given it already.

WITNESS: I did not express any opinion on it.

Sir EUGÈNE Fiset: I thought you had.

Mr. GREEN: I thought it would be interesting to hear Mr. Justice Taylor's opinion about the proposed change.

The CHAIRMAN: He has said he is against it. That is all.

Mr. GREEN: He thinks it should be left as it is.

WITNESS: No. I do not think it should be left as it is; I said I did not agree with the amalgamation. When the Pension Appeal Court was established it was a three man court, and it had to sit three members on every case, and it was only when the arrears of work got so bad that I was brought down here to make a fourth member so we could sit in quorums of two. That was done only to clear up these cases, but, generally speaking, the appeal court has been sitting in quorums of two since. I think it should go back to the original arrangement, as was intended. I do not say that I think it should, but I think it would help to alleviate the affairs of the returned men if it did.

The CHAIRMAN: Therefore, there would have to be an appointment of at least one extra man, or find some ad hoc man as they found you.

WITNESS: Yes. That might be necessary, although they are not overburdened with work. Again, I think it would help a great deal, and would only be putting into practical effect your own suggestion about section 73, the "benefit of the doubt." I think it is only giving the soldier what you expect us to give him if you say that the Pension Appeal Court shall not over-rule favourable decisions of our quorums, unless they are unanimous. Now, if it is a question of an applicant getting his pension and two out of three say he should get entitlement, then give the soldier the benefit of the doubt. You should let them do it. But to reverse a favourable decision I think they should be unanimous. I think if you did that you would alleviate a lot of the agitation to-day—a three-man court, and have a unanimous decision to reverse a favourable decision of a quorum.

The CHAIRMAN: There would be no difficulty about writing that into the law.

WITNESS: You would have to repeal that clause allowing them to sit in a quorum of two, and you should add a clause that they should reverse favourable decisions only by unanimous decision.

The CHAIRMAN: Suppose you added one to three. If you added a member to the appeal court, you would not require a unanimous decision of the four members.

WITNESS: Oh, no. Three would be enough, a full quorum of three. Three would be plenty, because three is the number that the soldier was told he was going to get when the appeal court was established.

The CHAIRMAN: But in order to provide for illness or anything of that kind, or absence, it would be just as well to add a member to the court.

WITNESS: Yes.

The CHAIRMAN: And make the quorum three, and in order to reverse the decision you would have to have a quorum of three.

[Mr. Justice F. G. Taylor.]



*By Mr. Green:*

Q. Has the Veterans' Bureau power to call expert medical evidence?—A. I do not know about that. I do not know what arrangement the Veterans' Bureau have with the department. I know this, that the Veterans' Bureau often suggest to us that we should have a man examined, and we have him examined for them, and get experts for them, too. That is not an uncommon thing. We do it through the commission. But I do not know what arrangement they have with the department about examinations.

The CHAIRMAN: But if the commission thinks that their request for expert evidence is justifiable, the commission has power to order that there be expert evidence. It comes to the same thing. It is all money that comes out of the same pocket.

WITNESS: We do that, and we get splendid co-operation from the Veterans' Bureau, and we get splendid co-operation from the Veterans' Organization Adjustment Service, too. I tell you they have all been a tremendous assistance to me since I came here.

*By Mr. Hamilton:*

Q. Does the Pensions Appeal Court deal with the percentage of entitlement disability?—A. No. Practically speaking, only with the question of entitlement.

*By Mr. Green:*

Q. Do you have anything to do with the Imperials?—A. Well, we have to supplement their pensions, of course, if they were living in Canada before the war.

*By Mr. MacNeil:*

Q. That is only with reference to the commissioned ranks?—A. Just the officer ranks, is it not? We collaborate with them all the time, of course. They are very decent about it. I know that on self-inflicted wounding they are far more generous than we have been.

*By Mr. Streight:*

Q. With regard to widows who lost their sons overseas, where the husband was living at the time and the boy was not contributing anything to the upkeep of the home, but the husband died, perhaps, eight years after the war and left the widow hopelessly impoverished, in some cases some widows are getting \$20 a month and some \$40 a month. Why is there that difference when the circumstances are the same?—A. I am very glad you brought that up. It has caused me a great deal of concern. We had pension cases just exactly as you say, Colonel Streight. One soldier's mother was getting \$20 a month and another soldier's mother was getting \$60 a month. They are there yet.

Q. I have a couple of cases of women living side by side, and there is a row about it. One woman gets \$40 and another gets \$60?—A. Of course, it is harder to lay down a rule of thumb for them than it is for the children. You see \$20 a month in some cases means just as much as \$50 in another; but what I am trying to do now, and I have been working at it for some little time, is this: A lot of those at \$60 a month got on around 1920 when the law was changed, and the Pension Commission evidently boosted a bunch of them up to \$60.

The CHAIRMAN: I claim credit for being the father of those widows. I fought three years to get them on.

WITNESS: Yes. A good many of them have been put on at \$60 a month, and they have been on ever since, and we have some at \$10. What I am trying to do is to get them on some sort of a level basis, somewhere around \$40 a month—to raise up the lower ones and bring down the higher ones.

Mr. GREEN: Wait until the higher ones get taken down.

WITNESS: We are getting it now.

The CHAIRMAN: It took a long time to get prospective dependency established at all in the house.

Mr. STREIGHT: That was one thing they forgot, was it not? They did not provide.

The CHAIRMAN: There was not a session for four or five years that I did not introduce a resolution.—A. I have always assumed that sort of payment was made to take the place of the deceased soldier in a kind of way and provide the parents with the support that he would have provided had he not been killed overseas or died. Some of those small payments are accounted for by this fact. We will find a family where there are five or six boys. They are all married, with families of their own and there is not one of them contributing towards the support of the parents. We are asked to contribute \$40 or \$50 because the other boy was killed overseas. We do not think it is exactly fair, because we assume that if that boy had come back he would probably have married and had domestic responsibilities of his own. And when we find none of the others contributing we think it is hardly fair for us to keep the parents just because that one boy was killed overseas. Yet we are doing that to-day in a great many cases. There are all sorts of conditions like that entering into it that probably account for those small amounts you asked about, Colonel Streight.

*By Mr. Hamilton:*

Q. What section does that come under?—A. 33.

The CHAIRMAN: 33 (1).

WITNESS: Nearly every one of those cases is a problem case and it is difficult to know what is the right thing to do with it.

*By Colonel Streight:*

Q. Will there be some amendment needed to take care of those cases on a unit basis of \$40 a month?—A. No legislation is required at all. You see, it is surprising, a good many of these awards have not been reviewed in 15 years.

Q. I was speaking of the \$10 and \$20 a month. I did not know you were giving \$60. I will take that up.—A. We are starting in now. We are reviewing the whole thing. We are taking it gradually, but when we get through with our review we will have them all on a more even keel; but it is impossible to get them so you cannot criticize them. I know that.

The CHAIRMAN: No gentlemen shall we call it a day or shall we come back to-night? What is the wish of the committee?

Sir EUGÈNE Fiset: I think we are through with Judge Taylor. I do not know if anyone wants to question any other member of the commission.

The CHAIRMAN: Do you want the statistics? General Macdonald is here and he will give whatever you like. We can always get the statistics if they are required during the course of our discussion. I do not think we should clutter up our files with these things. Shall we have our next sitting on Monday morning or to-night, and shall we call Judge Hyndman, if he is prepared to come? Who else does the committee desire to hear? Do you wish to hear Dr. Cathcart? I think somebody wants Mr. Woods back again, and also Dr. Cathcart.

Mr. MacNEIL: I think we should meet Monday morning and that will finish up the witnesses unless somebody wants to hear somebody else.

The CHAIRMAN: All right. It will be Monday morning at 11 o'clock.

The committee adjourned at 6.20 p.m. to meet again Monday, May 18, at 11 o'clock.

SESSION 1936

HOUSE OF COMMONS

SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 19

MONDAY, MAY 18, 1936

WITNESS:

Mr. Justice J. D. Hyndman, President of the Pension Appeal Court.

OTTAWA  
J. O. PATENAUDE, I.S.O.  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1936





## MINUTES OF PROCEEDINGS

MONDAY, May 18th, 1936.

11 a.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 o'clock, a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Beaubier, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Isnor, Lapointe (*Matapedia-Matane*), MacNeil, McLean (*Melfort*), Mutch, Power (Hon. C. G.), Reid and Ross.—13.

Mr. Justice J. D. Hyndman, President of the Pensions Appeal Court, was called, examined and retired.

Pension Appeal Court, Progress Report to April 30, 1936, ordered printed as Appendix "A" to to-day's evidence.

The Committee adjourned at 1 o'clock p.m. to meet again this afternoon at 4 o'clock.

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MONDAY, May 18th, 1936.

4 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this afternoon at 4 o'clock, p.m. Hon. C. G. Power, the Chairman, presided:

The following members were present:—Messrs. Beaubier, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Lapointe (*Matapedia-Matane*), MacNeil, Marshall, Mutch, Power (Hon. C. G.), Queleh, Reid and Ross.—14.

Mr. Justice J. D. Hyndman, President of the Pension Appeal Court, was recalled, examined and retired.

The Committee adjourned at 5.20 o'clock, p.m., to meet again to-morrow, Tuesday, May 19, at 11 o'clock, a.m.

J. P. DOYLE,  
*Clerk of the Committee.*





## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

May 18, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock, a.m. Hon. C. G. Power, the Chairman, presided.

The CHAIRMAN: Now, then, gentlemen, we will ask Mr. Justice Hyndman, President of the Appeal Court, to take the stand.

Mr. JUSTICE J. D. HYNDMAN, former member of the Supreme Court of Alberta, president of the Pension Appeal Court, called.

*By the Chairman:*

Q. Judge Hyndman, will you tell the committee something of the history of the Pension Appeal Court, what you have been doing, and so on? You have the statistics that may be required. I assume, from the registrar; but will you tell us briefly what work has been carried on by the Pension Appeal Court?—A. Mr. Chairman and gentlemen, it is a little difficult to know just where to start. I presume you want to know as much as possible about the workings of the court and the principles on which we proceed. In order to do that properly I am afraid I will have to ask you to be a little patient with me—in order to make the subject at all logical. At any rate, I might say that up to the 3rd January, 1931, I did not know that there was such a document as the "Pension Act." I had the ordinary knowledge the average citizen had, namely, that pensions were being paid soldiers, but I had no definite knowledge of what the grounds for pension were, or anything of that sort. On that date I received a telegram from the then Prime Minister, the Right Honourable Mr. Bennett, asking me if I would come to Calgary to see him. I did not know what he wanted to see me about, but I went to Calgary. I met Mr. Bennett the next morning and he told me that he would very much like me to come to Ottawa as president of the Pension Appeal Court. I had been on the Supreme Court of Alberta for nearly seventeen years, commencing in 1914. I was seven years on the trial division and ten years on the court of appeal. I was very happy and was enjoying my work very much, so I could not give Mr. Bennett an immediate answer, because I had no idea as to what the change would involve, and so forth. However, after a long discussion Mr. Bennett asked me if I would look at the Pension Act and ascertain generally what it was all about and satisfy myself. I went to the law library in Calgary and examined the Act and concluded that the court work would be very similar to the work I was doing, but confined to pensions; appeal work entirely, from tribunals established under the Pension Act. We met again and had a long discussion. Mr. Bennett was very desirous that I should take the position. I had been a very good friend of his for about thirty years. I accepted the position. Two reasons actuated me in doing so: One was that having been thirty-two years in western Canada I thought I would like to come east again. Secondly, I wanted to oblige Mr. Bennett, who on many occasions in the earlier days, without any possible hope of reward, had done me many personal favours. The result was, at any rate, that I decided to come to Ottawa. About a fortnight afterwards I received a telegram from Mr. Bennett asking me to come to Ottawa at the earliest possible date. I dislike mentioning these personal matters, Mr. Chairman, but I want you to understand how I got into this work.

I got this telegram on the 17th or 18th January, and arrived in Ottawa about the 25th January. I had no idea at all about pension matters, and after being sworn in I went to the Daly Building to look over the work in view. I discovered, much to my astonishment, that there were several hundred appeals waiting to be heard. The tribunals had been functioning only from the beginning of October, I think, and the time of which I speak was about three months later. I found between 500 and 600 appeals lodged there waiting to be disposed of. I was ten years on the appellate division of the court in Alberta, where the average number of appeals for the whole year never went over 200, and I think a fair average might be 175. In one year I remember there were only 150 appeals from six trial judges. There were eleven judges on the court, five on the appellate division and six on the trial division. We also heard all appeals from district courts for which there were thirteen judges, and from many magistrates appeals were taken direct to the appellate division. Out of several thousands of cases tried every year in Alberta the appellate division heard between 150 and 200 appeals, and so I was frightfully astonished and felt rather nervous about the situation. However, we got to work two or three days after I arrived here and we sat every day early in the morning and late at night to try to overtake this vast number of appeals, but they were coming in faster than we could deal with them and they accumulated into thousands.

Now, we had a very unpleasant duty. We found that in our view many of these cases had been wrongly decided; that is, that there was no proof such as we considered to be necessary to justify pension, and I think the records will show that we set aside about 60 per cent or 70 per cent of the favourable decisions which were rendered by the tribunals. That created a very disturbing situation not only for the court but for the public. We had numerous visits from various interested parties such as the Legion officials, and so on, who expressed amazement that the tribunals should be wrong in so many cases, and we explained the situation as well as we could. I know I told them that the court was open for inspection to anybody who was interested like themselves, and they could go through all the cases and if they could find any instances of injustice we would be very glad indeed to have them pointed out and, if possible, remedied. Well, I think I am safe in saying that we never had brought to our attention any case that could be said to be unjust or outrageous or anything of that sort. We were in close touch with the members of the Legion and Major Bowler was a very frequent visitor to the court, and I would say that if any flagrant cases or even doubtful cases came to his knowledge he would mention them to the court. But whether I am right or wrong—perhaps Major Bowler will correct me if I am wrong—I cannot remember any objection to any particular case.

Now, up to March or around April things were getting rather hot. The soldiers themselves naturally were very much disturbed about this situation, and I was not at all surprised at that. As time went on the press took the matter up to a considerable extent. There were editorials and statements which were not at all complimentary to the court, implying that we were not treating the soldiers properly and that we were guardians of the treasury, that we were protecting the government or the public purse rather than seeing the soldiers got a square deal. We had no way of answering these criticisms, for courts cannot do that, so we simply had to suffer in silence. We went on in the same way. Where we found a case that was sound we were delighted to be able to sustain it. If the decision was not justified on the evidence we had to do our duty, unpleasant as it was, and set it aside.

Things went on towards the end of the year, I think, and I know that in November, 1931, the late Sir Arthur Currie made a speech in Toronto which was widely published. It was a long speech, and a prepared speech, he said, in which he made the statement that the idea was held in many quarters—it was

[Mr. Justice J. D. Hyndman.]

not his idea—and perhaps not in very responsible quarters (I think that is the expression he used) that the court was there as the guardian of the treasury. In other words, the insinuation was that we were there to look after the treasury and that we were more or less inimical to the soldiers' right. Well, we could do nothing as to that, but I think in the following winter five of the principal soldier organizations in Canada got together and framed a memorial to the government asking for an investigation into the whole pension business. The expression in that memorial, I have not got it here but it can be substantiated, was that the spearhead—it used the word "spearhead"—of the whole business was the Pension Appeal Court. In other words, that we were the villains in the play. And so they asked for an investigation. Subsequently a committee was appointed with Judge Rinfret of the Supreme Court of Canada as Chairman, five members of various soldier organizations as members of the committee, with General Ross representing the Legion. I think Colonel Wood represented the Army and Navy Veterans, and I have forgotten just who the others represented. There were five departmental officials from the department, men who were supposed to know a little about the pension business.

That committee got started, and due to some illness in the Supreme Court of Canada of one of the judges, Judge Rinfret had to resign from the committee, and Judge Audette, who was an ex-judge of the Exchequer Court, was appointed to take his place. That committee went on and held many meetings. They heard witnesses from all over the country, and the court's treatment, you might say, of these appeals was a very prominent factor in that investigation. I think they made a report about May or June of 1933, and several reports were written.

One of the subjects enquired into, so far as the court was concerned, was the likelihood of the judges being fair to the men, whether we were interpreting the Pension Act properly, and whether we were giving the benefit of the doubt to the men, which was a very lively question, as well as various other subjects.

As you all know, the foundation of the Pension Act is section 11, subsection 1. I would ask you to allow me to read it because it is well to have an understanding of our conception of the pension business. It says:—

In respect of military service rendered during the war, pensions shall be awarded to or in respect of members of the forces who have suffered disability in accordance with the rates set out in Schedule A of this Act, and in respect of members of the forces who have died in accordance with the rates set out in Schedule B of this Act, when the injury or disease or aggravation thereof resulting in disability or death in respect of which the application for pension is made was attributable to or was incurred during such military service.

Now that section, in the opinion of the court, was the main section of the Act which had to be fulfilled before anybody could get a pension. There is nothing there about distress or about hard luck, or anything of that sort. It simply says that the disabilities must be the result of injury or disease incurred on or attributable to war service, or a pre-enlistment condition aggravated on military service.

Parliament passed that section, and we as a court, the whole pension machinery as a matter of fact, I think you will agree with me, felt we were not justified in going further than Parliament intended. That is, they say where a pension shall be given, and that is what must be followed. We are merely instruments to see that the law is observed. And so we realized that that section had to be liberally interpreted; that is, wherever there was a chance at all for a man to prove that his disability was due to war service, we felt we should be much more liberal than in an ordinary court of law where they require strict evidence.



Coming back to the point I had in mind, that whole question was inquired into by the Audette committee, and I think that if anything could have been found, as the court was the spearhead of this whole business, they would have pointed out where we were wrong, they would have picked out some cases in order to show that we were unfair to the soldiers. Now, I am the last person in the world to claim infallibility. I do not say that I cannot make mistakes, or that the court cannot make mistakes, any more than any court can make mistakes or anybody in the world can make mistakes, and I think possibly we have made mistakes. However, it has not been pointed out to me where we have been unjust or where we have deliberately gone out of our way to injure anybody, and I think that if on that investigation there were cases where it was clear or even doubtful that we were unfair, because that must surely be the ground for any attack on the court, the five members representing the various soldier organizations would have found it and would have said so.

Touching on that particular matter I want to read one or two things that were said by that committee. This is what Judge Audette said:—

The Pension Appeal Court, as a court of appeal and review, should continue to function as now constituted. Any two members thereof shall constitute a quorum, and so on.

The court seems up-to-date in so far as the preparation of the cases is concerned. It takes some time for the Veterans' Bureau to properly prepare the cases before the court.

He said that the court shall continue to function. Then on the benefit of the doubt section, here is what he said on that, and this is agreed in by three others:—

This section as enacted must be taken to disclose the intention of Parliament. Courts do not make laws but interpret them. Primarily there must be a doubt before that clause can be applied. Reading some decisions of the Pension Appeal Court upon that section, it must be found that the court went as far as possible under the circumstances, perhaps somewhat further than a civil court would have upon similar legislation. Indeed one must not confuse the question of burden of proof with the question of benefit of the doubt. From reading some of the memoranda supplied, it would seem that this criticism means that what the soldiers are seeking is that the moment a person has become an applicant (as defined by section 2 of the act) the onus would then be thrown upon the Crown to show that he is not entitled to a pension—otherwise he would be.

This is a question of state policy and not of administration as coming within the scope of the submission.

It is submitted that while the changes above recommended may appear somewhat drastic—

And so on. That is what Mr. Justice Audette said about the action of the court so far as benefit of the doubt is concerned. General Ross, I think you will agree, is competent to pass on a subject of this kind. His whole interest is in favour of the soldiers, and I do not think I am saying anything offensive to anybody when I say that he is probably trying to do more for the soldiers than anybody else in Canada to-day. I will read you what he says about it. He says:—

I must preface my observations on this subject by repeating the well-known statement that the court does not make the law, it interprets it. If the law as it stands and as construed by the court does not fully meet the intent of Parliament, it is for Parliament to amend it, not for the court to seek to find the intent of Parliament by reference to debates, etc., and so interpret the act.

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The benefit of the doubt clause was inserted in 1930 because Parliament recognized the difficulty at this late date of establishing that continuity necessary to connect present conditions with service conditions. It was realized that a man who had had long service in the line, the forward area in a theatre of war, would be more subject to such conditions as tuberculosis, bronchitis, rheumatism, and affections of the heart or nerves, than an ordinary man. Consequently it was enacted that:—

The applicant shall be entitled to the benefit of the doubt, which shall mean that it shall not be necessary for him to adduce conclusive proof of his right to the pension applied for, but the body adjudicating on the claim shall be entitled to draw, and shall draw, from all the circumstances of the case, the evidence adduced and medical opinion, all inference in favour of the applicant.

This section has been interpreted by the court on several occasions.

At the first sittings of the court the president said:—

In my opinion proof or evidence of the fact must be of the same general nature as is required in a court of law, as for instance in a damage action for injuries or death. The method of proof might justifiably be more elastic but the proof must be positive and not left to mere conjecture, suspicion or surmise. It may happen that on a consideration of the whole case the evidence may preponderate as against the applicant but whilst he would in that case probably fail in a court of law, it was intended by Parliament (see Sec. 73) that notwithstanding the weight of evidence against him the applicant should succeed but always provided a *prima facie* case at least is established or made in the first place on the balance of the two in which a real and substantial, but not a fantastic doubt in his favour is left in the minds of the Tribunal or Court.

General Ross then goes on to give some excerpts from our judgments, showing that we have interpreted in that way; that is, that we have said over and over again that although we do not believe the condition is due to war service, that although the evidence is strong against him, notwithstanding that fact, there is some evidence there in his favour and we will give him the benefit of the doubt. I will read you one thing he says there. This is from a decision of my own.

And again in the Wooley case he said:—

Whilst I have said above the case seems extraordinary, nevertheless in view of the medical opinions and other facts and circumstances of the case, I think it is at least difficult to avoid reasonable doubt, and that being so, in my opinion the appeal should be dismissed.

That is a case where the evidence was strongly against the man. It was a very narrow case, but I said, "Well, Doctor so and so says so; and if he says so,—although I do not agree with him myself, I am not a doctor, and I do not know—we will give him the benefit of the doubt." That is what General Ross said about the benefit of the doubt. He also said as to the cases coming before the court, and I think he said up here before your committee, that he could not find any fault with any of the judgments of the court. I may say that I sent a message when that committee was in existence, and I asked that they appoint a subcommittee, preferably consisting of Judge Audette and General Ross, who were both judges, to take 500 or so of our cases, take them at random, and go through them and satisfy themselves as to whether or not we were doing any injustice or whether we were entirely wrong. Well, they could not do that, apparently; but Judge Ross—that is General Ross—himself asked for a month's

judgments, he did not care what ones. Looking through our records we found that in June of 1932, that same year, we had written 125 judgments. It was the biggest month we could find of written judgments, and we thought that was the best one to give him. He said to just take any we liked, and we said we would give him the month of June because we heard more cases then than in any other month. There were, as a matter of fact, 125 written judgments. Judge Ross took those cases out to Yorkton, back to his home in Yorkton, and studied them there. After that he makes this statement:—

*By Sir Eugène Fiset:*

Q. May I ask what document you are reading from?—A. I am reading the report of the Audette Commission, Sir Eugène. This is General Ross's report in the blue book.

*By Mr. Mutch:*

Q. What page is that?—A. I will give it to you in a moment. It is page 26. He says:—

To secure a remedy we must first find the cause and this is by no means easy. Anyone familiar with the working of the tribunals knows how conscientiously and sympathetically they approach their duties. The reasons given by many of them for their decisions are models and indicate how painstakingly they weigh every particle of evidence in an endeavour to do justice. But that is not to suggest that the Appeal Court does not equally approach each case in the same spirit. I have in my own experience observed the court struggle for an hour with a difficult point which appeared to stand between a badly disabled man and his pension to see if some way round could not be evolved. To further enlighten myself on the subject, I have requisitioned all judgments delivered by the court in the month of June, 1932. Not a selection of judgments, but all judgments delivered in the daily routine. I have read them very carefully, over 100 separate judgments, and have been amazed that members of a court so overwhelmed with work have been able to give such care, such meticulous care, to the consideration of cases before them. There is not a sign of hasty decision or snap judgments, nor are there any signs of seeking to destroy the claim, but rather that of seeking if possible to sustain the verdict. The problem is a very difficult one. Many reasons have been suggested. It might be well to examine some of these.

He makes another statement to the same effect later on, if I can just put my hand on it. He says he can find no fault. I can find that if I can get the page; I thought I had it marked, but apparently I have not.

Anyway, I will find that for you in a moment. It is practically the same thing as he said before. Then, I understand that up here—I have not had a chance to read all the evidence he gave—in his evidence General Ross said practically the same thing; that he had no criticism himself, but there was undoubtedly a feeling among the soldiers that the court was not their friend at all and that we had very few friends; but he said that is not his own opinion, that is the opinion of many people throughout the country.

Now, I think I am not saying anything unreasonable when I say that if a man such as General Ross, an able soldier and an able judge, and an outstanding friend of the soldier, examines into a large number of cases as he said he did and says what I read he said, I would rather have his opinion than the opinion of thousands of people who do not know anything about it; I mean, who never read any individual judgments. If you were going to examine in order to get to the absolute truth of the whole thing you would have to go through over 8,000 judgments to see whether we were fair or not. That is

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impossible. So, I say that personally I am entirely satisfied with the opinion of General Ross. Whether or not the opinion of a large number of soldiers all very deeply interested in this should be taken in preference to his, is a matter for the committee to consider. However, I am merely stating that fact.

Now, there is another point, in connection with our judgments, their fairness or unfairness, if you like to put it that way. It has been mentioned, and I think quite properly—I would say the same thing myself—that the soldiers would know more than a layman does, or a person who has never been in the war, about the effect of trench life and that sort of thing, which is quite true. On the court as it was constituted when I came down here in addition to myself there was Colonel LaFleche, who was at that time Dominion president of the Legion. Colonel LaFleche could not I think under any consideration be said to be anything but a friend of the soldier. I have met a lot of people in my time but I never met a finer man than Colonel LaFleche, or one who was fairer. He used to astonish me in concurring in giving judgment in many of these cases. One would think that the temptation to give a favourable decision in this that or the other case, especially with a man such as he was, President of the Legion—he had a great deal to do along with your chairman I think in the framing of the 1930 Pension Act—if he could not see fit to give a pension in a case it would not be surprising that perhaps I who was not a soldier should not give one. As a fact, there was or is no real difference of opinion between us, everybody on that court, Colonel LaFleche and Colonel Sherwood and myself are each entitled to the same amount of blame and to the same amount of credit for what happened there. We are all trying to do the best we can with a difficult problem. But, as a matter of fact, quite often I had the view, not having been in the war myself, that surely these experiences in France affected the soldier unfavourably and must have led to some of his present troubles, and I have argued that over and over again, pressing the point that this man's service had had some ill effect, but I can say frankly that my soldier friends and doctor soldier friends were generally against me. They say that is all rubbish, there is no such effect at all. I know that that question has been often mentioned, what is called stress and strain of service, and I fully thought that was so, but again and again they did not agree with me, and so on that particular point—

MR. MUTCH: You might get some confirmation of that to-day.

WITNESS: Perhaps they are all wrong and I am right. I hope I am right.

I have a little statement here which may be of interest. I know there is no more upright or honest man than Colonel LaFleche. He would not do what he thought was wrong. But, to show you that we did not always agree, I have a little statement here with respect to 2,947 cases. With respect to 82 commission counsel appeals, that is where the crown appealed, which were disallowed by the court, dissenting opinions were expressed by members of the court as follows: Mr. Justice Taylor, none—I come to that in a moment; I dissented against the man on two occasions; Mr. Richard dissented on two occasions; Colonel Sherwood dissented against him on twenty-six occasions; and Colonel LaFleche dissented 52 times. That is, out of these decisions I was against the man twice, Colonel Sherwood twenty-six times, and Colonel LaFleche fifty-two times. I do not want to have you think that this meant hostility or anything of that sort, but that was his honest opinion.

Now, in reference to forty-four commission counsel appeals, allowed by the court, dissenting opinions were expressed by the members as follows: Mr. Richard, none; I dissented in favour of the man 14 times; Colonel Sherwood favoured the man 17 times; Colonel LaFleche 10 times; and Judge Taylor 3 times.

I merely cite these figures to show that there really is no material difference between any of us so far as our attitude is concerned. Now, another thing was this, as I say Colonel LaFleche surely could not be charged with doing

anything injurious to the soldier interest; because, in my opinion, and I think everybody will agree with me, there is no better friend of the soldier anywhere than Colonel LaFleche. But, we were all in the same boat there. Colonel Sherwood had a fine record of service. He went over with the first contingent. He was in France, and he had a fine record of service. He did what we did, exactly the same attitude. We who know the true situation are all agreed on that. Later on we had such a heavy list of appeals, it was decided to have two quorums working. Provision was made, following the Audette report, giving the governor in council the right to call in a judge from any provincial court to sit with us as ad hoc judge. In November, 1933, Mr. Justice Taylor was asked to come from Manitoba to sit with us so that we could form two quorums. He sat on over 600 cases. He is undoubtedly, as you have heard, one who has the confidence of the soldiers. Everybody is agreed on that. He sat on those cases and differed with us three times, or something like that. He came in in November, 1933, and he stayed until May, 1934. As I say, he sat on over 600 cases during that time. I have a statement here showing the number of times he differed with any of us, and I think it was three times.

*By Mr. McLean:*

Q. These are appeal cases?—A. Yes; he was only on the appeals then.

*By Sir Eugène Fiset:*

Q. Are these differences of opinion recorded in writing?—A. Well not always, sir. I would not say that. Very often we gave decisions right off the bench, but I fancy those dissents would be in writing. The point occurred to me and I thought it would be well to get statistics. I can get that; but anyway I think he differed with us three times. I differed three or four times. Each one differed with the others three or four times; that is all.

*By Mr. Mutch:*

Q. It has been said that between November, 1933, and May, 1934, the percentage of appeals as against the soldier was the highest in the history of the force. Is that right?—A. The highest in the history of the force?

Q. Yes.

The CHAIRMAN: The percentage of decisions.

WITNESS: Between November and May when Judge Taylor was with us.

*By Mr. Mutch:*

Q. During the time when the two courts were sitting it has been said that the percentage was highest.—A. Well I really have no figures on that but I do not think that is so. The highest was when the appeals came from the tribunals. In the fall of 1933 the quorums began to operate, but many of Judge Taylor's decisions would be from the tribunals. I would not like to say so, Mr. Mutch; I can find it out for you.

Q. It has been said and as a matter of curiosity I wanted to know whether it was accurate.—A. I would not think so. I fancy things went along pretty much in the same proportion.

Q. I was not associating it with the appointment of Mr. Justice Taylor.—A. No, I know that. I really could not tell you that, but I might be able to get the figures for you. I should think not; I should think the greatest number was before that.

*By Mr. McLean:*

Q. You have not the figures for the 600?—A. No. I have not got them.

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*By the Chairman:*

Q. At that time with two quorums sitting undoubtedly you were hearing and disposing of more cases?—A. Yes, we were.

*By Mr. Mutch:*

Q. It should not affect the percentage?—A. It should not affect the percentage, no. I could not tell you that.

Q. It might give us an idea whether a quorum of two was more dangerous, from the standpoint of the men, than a quorum of three. That would be the only effect.—A. I do not think it would make very much difference. The only point I was endeavouring to make was this—I think the committee want to know the facts, and I am trying to give them the facts—these cases have gone through. First of all, no case can come to us that is not first reviewed by the commission. We all know that. It has to be refused by the commission before it can get to us, because the crown has no appeal from the commission. I think I have heard the expression “barbed wire entanglements.” The first entanglement is the commission. I think that would be the first thing we would have to cut. Then you get the appeal court, later. We have been called the barbed wire entanglements, but I think the simile is hardly appropriate.

*By Mr. Cameron:*

Q. Have you two appeal courts consisting of two judges?—A. Two form a quorum.

Q. What happens if one gives a decision allowing the pension and the other opposes it?—A. We would call in a third, argue it over again.

Q. Go through the entire case again?—A. We are supposed to. It has to be heard again.

*By Mr. MacNeil:*

Q. Is there a reviewing officer attached to the commission who takes the appeals on behalf of the crown?—A. I beg your pardon?

Q. I understood the reviewing officer who is attached to the commission— —A. The reviewing officer is a perfectly independent officer, he is not attached to anyone.

Q. Doesn't he advance appeals on behalf of the crown?—A. He is the only one who can. Every time a favourable decision is made by the quorum—there is no appeal from the commission—the commission itself may grant any pension it likes; no check on that at all. It can give a pension to anybody and nobody can say nay; but if they do not grant it it goes to the quorum. When the quorum gives a favourable decision, after it has been refused by the commission, before it is effective it goes to the reviewing officer. He is an independent officer. He looks it over and if he concurs in the decision, if he says, “I am satisfied,” then it goes through, there is no appeal. But if he says, “I do not concur,” then he instructs pension counsel to take an appeal on behalf of the crown, and it comes up that way. I was going to say something about that in a few moments. But the point is the only case that ever comes to us has been threshed out, first of all in the commission, or is supposed to be. After being refused by them, it goes to the quorums; then if the reviewing officer does not concur in a favourable quorum decision he orders an appeal, or at least he instructs counsel to take an appeal, and it comes to us. That is the way it comes to us. We have no jurisdiction whatsoever in any individual case except on appeal by the crown or the applicant.

*By Mr. Mutch:*

Q. So that considerable of your time would be taken up by appeals from the quorum or reviewing officer?—A. No; up to date the reviewing officer has lodged appeals in only 155 cases.



Q. During the automatic appeals?—A. No; I was not there then. He only came on in 1933. Before that, Mr. Mutch, the commission itself appealed; the commission ordered the appeal; they instructed commission counsel to appeal. Then in the legislation of 1933 instead of the commission lodging an appeal it was arranged that a reviewing officer should be appointed who should go carefully over those cases and decide whether or not there should be an appeal. Now a statement was made here that I should like to correct. I do not think you should be labouring under any misapprehension. I think it was said here by somebody that only 20 per cent of the favourable decisions of the quorums have been allowed to stand. Am I right in that? Twenty per cent of all the favourable decisions of the quorums since 1933 have been allowed to stand. Well the fact is, that there were about 1,250 favourable decisions given by the quorums since 1933, and only 155 of those have been appealed. Of that number appealed our court has set aside only 35, so instead of 80 per cent of all these cases being set aside, something less than 3 per cent were set aside. In other words, 97 per cent of all the favourable decisions of the quorum are in the same position to-day. We have not heard all these 155 yet, but up to date, out of those we have heard, we have set aside 35—I think that is the number, 35 or 36—which is less than 3 per cent. That is to say less than 3 per cent of the favourable decisions have been set aside, and 97 per cent still stands. I think it is only right that that should be corrected.

*By Mr. Green:*

Q. Do you know how many of these appeals that were set aside were the unanimous judgment of the court of appeal?—A. Well I can easily find out for you, Mr. Green; I cannot tell you offhand but I venture to say there would not be five dissents from anybody. It would be unanimous. I can get that for you very easily.

*By Mr. Mutch:*

Q. Have you any figures for 1933 in regard to the appeals of applicants where the applicant has appealed to the appeal court and got a favourable decision?—A. Yes.

Q. The percentage that has been granted?—A. Yes; I can give you the number of these. I can get you that exactly. I think I have them here somewhere. I can get you those exactly. Here is a statement I will refer to: report of the Appeal Court as of date 29/2/36, showing appeals received as 154—that is appeals by the Crown; appeals withdrawn 14; appeals undisposed of 35; appeals allowed 35; appeals disallowed 28; remitted 42—that is, sent back for further hearing.

*By the Chairman:*

Q. With regard to appeals withdrawn, those appeals were the result of some other decision of a court?—A. Yes, exactly. I would point out here that section 5 of the Act left it rather doubtful whether or not in cancellation and change of basis of entitlement cases, the Crown had any right of appeal. The Crown was appealing those change of basis of entitlement and cancellation cases.

Q. Appealing from the quorum?—A. Appealing from the quorum; and we rendered a judgment holding that the Crown had no right of appeal there—that is, there was no appeal by the Crown at all; that the quorum did not give a "decision," it was simply advice to the commission. That was the cause of those 14 being withdrawn.

Q. You gave one decision and, as a consequence, the other 14 were withdrawn?—A. Yes. Favourable decisions of the quorum, 1,237; appeals undisposed of by the court 35, leaving 1,202; appeals allowed by the court 35; remitted

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by the court 42. Of 1,202 favourable decisions, 1,125 had been concurred in by the reviewing officer or sustained by the court. That is, 93 per cent of favourable quorum decisions; not less than 20 per cent as stated appeals allowed 35—that is less than 3 per cent of all favourable decisions.

*By Sir Eugène Fiset:*

Q. You were dealing with a decision given by the quorum and the cases referred to you by the reviewing officer, and Mr. Mutch asked about the applications for appeals from the applicants themselves?—A. Now, that is a very different story. I might say in those cases where the applicants appealed very few of them got through. That is, they got very few favourable decisions. I doubt if it represents 1 per cent. I am not sure of that. I have a statement on that here somewhere. If you would like me to give you the figures from the beginning, Mr. Mutch, including the tribunal decisions, I have them here. (Statement appears as appendix "A" to to-day's evidence.)

The CHAIRMAN: Give them all. You can put them all on the record. I do not think you need read them all.

WITNESS: Anyway, I have here the number of appeals taken by applicants from decisions of the Canadian Pension Commission. You see, they can appeal direct from the commission, or if it goes to the quorum, then from the quorum. There were 554 appeals from the Canadian Pension Commission. We allowed out of that number only 7; we disallowed 270; we dismissed on jurisdiction, 1; we remitted 8, and 209 were withdrawn—that is, the applicants themselves withdrew 209 appeals; pending 3. That was up to the 30th of April. That is from the Canadian Pension Commission.

Mr. REID: What year?

WITNESS: That is ever since the quorum started to function, since the 1st October, 1933.

The CHAIRMAN: 1931.

WITNESS: No—the quorum—1933. Then, the number of appeals taken by applicants from decisions of the C.P.C. quorums was 3,528. That is the number of applicants who appealed. We allowed only 19 of those. That is a pretty small figure.

*By Mr. Mutch:*

Q. The suggestion seems to be that the quorums learned their lessons very early in regard to not sending up anything that was not a wide open and shut cinch?—A. This is really getting down to what I thought it would be before I came down here. There are very few cases appealed out of the thousands that are heard, as I say, in Alberta—and I know something about that province—there would be three or four thousand cases tried every year by six supreme court judges and thirteen district court judges and magistrates, but we got only from 150 to 200 appeals from them all. The percentage of appeals under all systems of jurisprudence is very small.

Q. You just about reduced the value of the appeal court?—A. That is a point, of course, that is for your consideration. In every country I know of there are appeal courts, and some of them have comparatively little to do. The benefit of the appeal court is that it is a check on the lower courts. If single judges—I am speaking now of ordinary jurisprudence—can go around and give judgments just as they please, without any check at all, of course, that is a matter of policy for any country; but I do not think there is any country in the world that has not got an appeal court. It does not concern me whether you have one or not; but, in my opinion, that is the benefit of an appeal court. That is, it is a warning to the lower courts to be careful,

otherwise they may be checked up. Take the Supreme Court of Canada here. They entertain appeals from every province in Canada, but hear only about 100 or so a year.

Q. The expense involved in appealing to the Supreme Court of Canada has a lot to do with the number of appeals?—A. I think you are quite right about that.

Q. There are a lot of judgments that would be appealed to the Supreme Court of Canada, I suggest, if the ordinary litigants could do so with the same ease that the soldier appeals to your court?—A. You have put your finger on the point. If a man knows it will not cost him one red cent to appeal, he will appeal; but if he has to pay a dollar he will not do so.

Q. On the other hand, the court of appeal is a very efficient weapon in the hands of the man who has a dollar?—A. I do not know. That is a question of policy. It is for parliament to say whether or not they want the quorum members to go around the country rendering judgments that are to be considered final. It is no concern of mine. However, when these quorums handle five cases per day on the average, I think perhaps they would not be quite as careful as they are if they knew there could be no appeal from their decisions. The appeal court provides a guarantee that the claim will be carefully considered. On that point, how about the man who thinks he should have obtained judgment from the quorum? I would like to give you an instance: Last year about this time we received an appeal from an ex-soldier in London, Ontario, who claimed that he was 100 per cent disabled from tuberculosis. Undoubtedly he was 100 per cent disabled. When the quorum held its session in London two doctors gave evidence, both favourable to the applicant. One testified he remembered that immediately the man got home from France in 1919 he had come to him and had received treatment for bronchitis or something of that sort, some symptom which would likely indicate the beginning of tuberculosis. The other doctor a prominent surgeon, gave evidence to the same effect, namely, that he had treated the applicant a year or so after 1919; but the quorum did not credit the doctors. When the matter came before us on appeal we examined this evidence very carefully and said in effect: "We do not see why the quorum did not believe those doctors. Their evidence was clear. There was nothing unreasonable in what they stated. It appears to be a very honest story." We have, as you know, power to take evidence ourselves, and we were asked to take evidence in that case. Well, we had three other cases in Toronto which were somewhat similar, one a tuberculosis case in which Dr. D. E. Robertson, of whom we have heard lately, had given an adverse opinion. We decided to go to Toronto and hear the evidence in the three cases and to London to hear the evidence in the case I have mentioned. We thought there was something just a little ambiguous about Dr. Robertson's evidence and felt that we might be able to straighten the matter out and give the man a pension, but Dr. Robertson stuck to his opinion and we could not help that applicant. Then we proceeded to London on the two o'clock train arriving there at five o'clock, found that one doctor lived about nine miles out of London. We located him, had an early dinner, drove out to his place, held court in his office and took his evidence and were satisfied that he was telling the truth. We returned to London late that night, called up the other doctor at his house about eleven o'clock and arranged for him to come down to the hotel at seven o'clock in the morning in order to enable us to catch the nine o'clock train to Toronto. The doctor came down about half past seven and we took his evidence in the hotel, caught the nine o'clock train back to Toronto. Neither of these doctors had any records and each was speaking only from recollection, but they gave reasons which satisfied us that they were telling the truth, and we awarded that applicant a 100 per cent pension.

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Q. He was one of the 19?—A. That may be; probably so. We had an eye case in Ottawa, where a man had served in the Dardanelles and suffered a very bad attack of dysentery,—when he returned to England his eyes were affected. The whole thing was examined into, and they gave him a pension for one of his eyes for what they call keratitis—no doubt Sir Eugène Fiset will understand what that means—but they did not give him any pension for the other eye. They said that it had been perforated as the result of an accident before he went to the war. The principal material in the case was an entry on the service documents in England by Dr. Fraser, who is one of the leading eye men in Ottawa, to the effect that this condition was due to an old injury before he joined the forces. We said: "This is a strange thing, that a man should have keratitis in one eye and not in the other," and it did not seem to be quite reasonable. Either the tribunal or the quorum turned down his application. We thought it was somewhat strange, and we called Dr. Fraser before us to give evidence and he took the man, who was in Ottawa at that time, although he lives in Toronto, and X-rayed his eye and made a thorough investigation into the case and came up before us and said: "I was wrong in what I did over in England. Probably it was a hurried examination. I am now convinced that the little scar which he had had nothing to do with his condition, and it is due to the same cause that affected the other eye." The result was that we gave that man a pension. I am merely stating these things to show that we do go out of our way to help a fellow sometimes.

Q. Would not that suggest to you the value of the court of last instance having some contact with the men themselves?—A. I would think that would be almost impossible in view of the hundreds of cases that come before us. If we are going to act as a court of appeal we cannot try cases also.

Q. If you had it on the basis of the civil courts would it not be better?—A. The appeal courts in the provinces do not see the appellants.

Q. At the rate you are going you are going to discourage appeals?—A. I agree that if only 35 or 40 get pension through the appeal court they would lose out on it.

Q. If you save only 3 per cent—

The CHAIRMAN: It must not be forgotten that those cases had been sifted out pretty well.

WITNESS: You take the ordinary case that comes before us on appeal by an applicant. That case went to the commission first. They looked into it. The doctors of the commission examined into the case and obtained all the evidence they could and said, "You have not made out a case." I want to point out that nearly all these claims nowadays are not what we call real war claims, not wounds and broken limbs and that sort of thing, but claims because of the ordinary ills of life that you and I and everybody else is apt to have, such as bronchitis and nephritis, liver complaint and rheumatism, and so forth, from which most of the population suffer; and the only reason that they can claim for pension for those ills is when it is shown that the disability was incurred while on service. Naturally it is difficult for an applicant twenty years after the war broke out to prove that the nephritis, for instance, was contracted as the result of war service when the doctors say otherwise. If you look into many of these cases you would find that they had been hospitalized for months for a wound in the foot, for instance, and there were very good, although not perfect, case sheets kept, and if a man also had bronchitis or liver complaint or something of that sort, one would think there would be some record of it. He is discharged fit, and quite often he signed documents himself stating that he was in good shape; but he comes along fifteen years afterwards and tries to prove that what the ordinary man in the street has, such as a cold or bronchitis, is due to a cold he contracted in 1916. Obviously you require some proof of that. I read the letter that Mr. Bray read to you here the other

day about the English system. They have assumed over there that unless these disabilities are manifested within seven years after discharge he will have a difficult task to prove that his disability resulted from war service, and often you will find that the records disprove what he claims. Also quite often we get certificates from doctors that they cannot substantiate afterwards. I am going to give you an example of that. We had a case of a man claiming for neurasthenia. His whole case was based upon being blown up on a certain date in June, 1917. He was knocked down by the explosion, but not buried. He submitted as corroborative evidence a statement by a doctor to the effect that he remembered this fellow being blown up on this date, and that he attended to him and sent him back to the transport. That was the certificate. Anyway, the commission would not accept that and they sent it on to the tribunal and the doctor came up before the tribunal, and under oath the doctor said that he had attended this man on that date; that he had sent him back to the transport, exactly what the man said before.

Well, in the course of examining into that case, there seemed something fishy about it. I might as well use that expression. It did not look good, and we examined the doctor's records, and we found that the doctor was not in that battalion at that time, that he was in another part of France, and it was three months after that that he was acting as medical officer of that particular battalion. Two members of parliament were interested in that case, and they were very, anxious that this man should be looked after. They came up, in fact, and listened to the whole argument, and we reserved judgment. A few days later one of them rang me up and asked me if I had given judgment. I said we had not, that we were going to send it back as there was something about the doctor's evidence that we did not quite understand. He was quite wrathful about that, and he said that that doctor was one of the most respected doctors in a certain province. So I told him that we had found certain things here and were going to send it back. We sent the case back, the doctor was called to give evidence and he admitted on oath that he did not send that man back, that he was not there at the time, but that the information he gave was what he got from the officers in the mess after he joined the battalion three months later. Now, that is a sample of the kind of case you get very often, and we naturally have to be a little careful.

I will give you another case where we were almost going to be shot to death because we refused a man a pension. The whole town, and it was a fairly large town in Ontario, was up in arms against us. The member for that district sent word to the deputy minister of the department that he was going to bring the case up on the floor of parliament, and he said, "Perhaps before I do that I had better speak to Judge Hyndman." The deputy minister asked me if I would see him. "Certainly," I said, "I am here every day and I would be delighted to tell him everything I know about it." In due course the member came in to see me. I had never met him before, but after a few little compliments to one another I said, "What's the trouble?" He told me that the whole town was up in arms about this case; that he had to do something about it and that he had to bring it up on the floor of the House. I said, "That's too bad." I said, "Do you know all the facts of the case?" He said he did. "Well," I said, "I suppose there is nothing to do but bring it up." I said, "When was this man treated after he came back?" "He was treated the moment he got back, he was a sick man when he got back from France." "Who treated him?" "Doctor So and So." I can give you the names of these cases, but I do not want to put the names on the record. So I said to him, "Look here, it might be well to go through the record and see what it says; if you have time, I will get it." So I got the file, and it happened that I had written nine pages of reasons in that case because I thought it was a rather important one. If what the member said was true the man ought to get a pension. On the

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file were four certificates by the same doctor, all disagreeing with one another. They stated that he was treated in 1919, immediately after he got home, and in 1920, 1921 and 1922. But when the case came before the Tribunal and the doctor gave his evidence he admitted that it was not until 1924 that he attended him and that he had then attended him for Pneumonia. The man was discharged fit. There was nothing on his service indicating anything of the kind, and, naturally, we had to allow the appeal. Well, the member looked through the file and after it was all over I said, "You are a member of parliament, and I suppose one of your principal functions is to guard the public interest." I said, "One of our principal duties is to observe our oath which is that we will administer the Act without fear, favour or affection." I said, "Would you, if you were in my place, have given that man a pension?" He replied, "I certainly would not, you did right; and I will take no further interest in it." He saw it for himself on the record. I am only giving you those instances to show you that we are occasionally up against a nasty proposition.

*By Mr. Reid:*

Q. Did the town calm down again?—A. Well, I did not hear of any riots after that.

*By Mr. Mutch:*

Q. I should like to ask you regarding cases where men are discharged fit and subsequently something is found the matter with them. It seems that they are confronted with the fact that they were discharged fit. Every man who was enlisted was enlisted as fit, and I know of a case where a man was refused a percentage of pension by virtue of the fact that he had some particular complaint before he enlisted. In other words, we do not seem to attach the same importance to the medical examination by which a man was declared fit to get into the army as we do to what was laughingly called a medical examination when he got out of the army.—A. I am glad you brought that up, Mr. Mutch, because you are speaking of the 129 board. That is the short board.

Q. I do not know. I know when I left the army I shook hands with the doctor and I told him I was in a hurry to catch a train, and wished him luck.—A. That is exactly what thousands did, and we do not pay much attention to the 129 board.

*By the Chairman:*

Q. What do you call the 129 board, the board on discharge?

Sir EUGÈNE Fiset: Sometimes on board ship, sometimes before leaving England and sometimes on arriving in Canada.

WITNESS: Yes. We do not give much weight to that. Sometimes there will be on that board something about a pre-enlistment condition, but we do not pay any attention to it. You are perfectly right, Mr. Mutch, and I may tell you we pay very little attention to it at all unless it is clear that what that board says is true. Even the 227 board, which is the long—

*By the Chairman:*

Q. What is that?—A. Where he is taken aside and examined.

Q. Did they examine everybody that way?—A. No. I think if you said there was something wrong with you they would stand you aside. A man would then be taken before three doctors and examined by them. As far as the form is concerned, they examined him throughout, but even in that case we do not pay the attention to it that perhaps you might think. If we can get any evidence extraneous to that, outside evidence to rebut it, we are delighted to be able to do it.



*By Mr. Mutch:*

Q. How are you able to determine a pre-enlistment disability of a man who was enlisted as fit?—A. When you say a man was enlisted as fit, do you mean that he was perfectly healthy in every respect?—A. Well, he passed the examination. We know from a man's own statement very often that he was not fit; that he had rheumatic fever or bronchitis or something wrong before, according to his own statement, in very many cases. You take these pre-enlistment aggravated cases, there are thousands of men pensioned for pre-enlistment conditions are there not? Well, they were not fit in that sense, but they were fairly healthy—

Mr. CAMERON: They were fit for active service.

WITNESS: They were fit, but many of them—I will give you a case that will perhaps amuse you. One day we had two appeals out of a dozen or so. The first was that of a man who claimed pension for arterio-sclerosis. He had served for about two years in the barracks at the coast. He was never out of Canada. At the time he was claiming for arterio-sclerosis he was 74 years of age. He enlisted at 59 or 60, or somewhere around that, and he was claiming for arterio-sclerosis. I do not know whether you know much about arterio-sclerosis. I did not know anything about it until I came down here, but I have learned a lot since; that everyone of us when we get up to 40 years of age gets arterio-sclerosis. I do not want to frighten anybody, but that is what the doctors tell me. This old gentleman at 74 had arterio-sclerosis. All he did was orderly work and that sort of thing around the barracks or whatever it was. They gave him this job to help him out in 1918 or so. The tribunal gave him entitlement and we had to take it away. I hated to have to do it. But unless you close your eyes and say, "Oh well, give the poor fellow a pension" you could not do otherwise. I think that is not in accordance with our duty under the act. The next case was a man claiming for being weak in the shins.

*By the Chairman:*

Q. What is that?—A. He said the muscles in his legs were sore and he could not get around as well as he used to. It turned out that the man was 94 years old.

*By Mr. McLean:*

Q. 94?—A. 94; and the medical evidence there was to the effect that it was old age that did it, but the tribunal gave him a pension. Well, I would have been delighted to have seen the old man keep his pension; but I simply had to do the worst, or at least do the most unpleasant thing and take it away. I think anybody here would have done the same thing.

*By Mr. Mutch:*

Q. Depending on how many dependents he had?—A. Well, he said he was getting along nicely. He hoped to be better in a few years; his mother lived to be 106 and he expected to go beyond that. I think he considered himself a fairly young man, but he was 94. Would you say he was fit when he enlisted?

*By Mr. McLean:*

Q. What war was he asking a pension for?—A. The war of 1812, I think. I am glad you asked that, Mr. Mutch, because we do not pay very great attention to that 129 board or even the 227 board if we have other evidence to deny it.

*By Mr. Mutch:*

Q. Two or three times recently I have asked for a precis of a man's history, and the first fact that I came up against was that the man was discharged as fit and his entitlement began only in 1924 or some time later like that; that, in

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the minds of some connected with this pensions business seemed quite a handicap. It is a bit of barbed wire, as you were speaking of a few minutes ago. I could mention the case.—A. Of course, before he was turned down by the court, he was turned down by the quorum or the tribunal; and when he gets up to us, unless he has something to go on, how can we say that all those people were wrong, if there is not any evidence there to help him? I think a good deal of the trouble arises from the fact that after 1930 conditions were bad, there was a fearful depression on, and there were a lot of good fellows out of work. They thought the only chance they had was a pension—I do not think I am saying anything that is not pretty well true—and it did not cost them anything to apply. They would put in a claim anyway; nobody could see that there was any claim, and consequently they have not got pensions. There has been great disappointment amongst them at not succeeding. Nobody is more distressed than we are when we have to turn down some good fellow. I may tell you when we can either grant a pension—even those few that we have—or dismiss an appeal by the Crown, we are delighted.

*By the Chairman:*

Q. In other words, by the time the case gets to you the man has had his case reviewed at least three times and possibly more?—A. Oh, a dozen times. They go backwards and forward, the doctors in the field, and the doctors in the commission down here go over it and they cannot see anything in the case. The quorum goes out in the field and they cannot see anything in the case.

Q. It could have been heard, possibly first of all by the commission, next by the Federal Appeal Board and then started all over again—again back to the commission, and again to the tribunal, and again to you?—A. Yes.

Q. He has had five hearings at least before he came to you?—A. More than that. Many of these cases have been through the Federal Appeal Board, and backwards and forward. Their files are that thick (indicating). I am bound to say this: I know most the officials down there in the department, or at least the commission, the head officials; and they are all anxious to give the fellows pensions if they can do so. There is no hostility to the men; and if they cannot do it after going through all these proceedings it is rather difficult for us to find a good reason to say that they are all wrong.

*By Mr. Mutch:*

Q. Do you find that there is much excuse for not accepting medical evidence as to the co-relation of present condition with war service? The complaint has been made that men who are not doctors take in many cases the sworn evidence—I suppose in all cases the sworn evidence—of medical men who say in their opinion the man's present condition is attributable to war service, and disregard it. I have had some cases in my district, and I think everyone has had the same experience, where the Appeal Board has simply stated, "We do not believe the doctors." That is, in effect, what happened. You mentioned two cases where you disbelieved them to the advantage of the man. We have had suggestions made here, and it is made to me privately many times, that men who are not doctors take this medical evidence and do not accept it.—A. I am glad you mentioned that question of doctors' certificates and doctors' records and so on. It has been said up here that we do not accept anything unless the doctor has a record. That is absolutely not the fact. In hundreds of cases we accept their opinion and their evidence and their statement of fact where they have no record. That is not the thing at all. If he can satisfy us by a story that he attended this man for something, we accept it. Just as in that case in London I was telling you about.

Q. Would you say that the court is predisposed to accept the opinion of expert witnesses apart from doctors?—A. Well, if I get your point right—I may be in doubt about it, but we have been getting cases like this: "I hereby certify

—and this is written in 1933 or 1934—that I attended John Jones in the years 1922 or 1923, or I have attended him lately—perhaps I only saw him two or three years before—and in my opinion this is due to war service.” Could anybody accept that as proof that his condition was due to war service?

Q. I should think it would be evidence, from a doctor.—A. Without any reasons at all?

Q. If it was straight opinion. He is not submitting his evidence to another doctor.—A. In nearly every one of these cases, we have a lot of certificates down there; and the commission would not accept them, and I do not think anybody would. Because I see a man to-day and he tells me a story, and I find he has got tuberculosis or rheumatism or something, and I say in my opinion it is due to war service, that is probably the result of the story the man told me.

Q. That is conceivable, it is valuable even. I have seen cases turned down with an opinion from so eminent a pathologist as Dr. William Boyd even?—A. Are you thinking of the W. P. case?

Q. I haven't got the name in my mind, but it is a case that has come to attention since I came down here, in which apparently no attention was paid to the evidence of the expert?—A. I am awfully glad you mentioned Dr. Boyd. I think somebody said up here that we just threw his opinion to the winds, would not pay any attention to it. I happened to know Dr. Boyd before I came down here, and followed his opinion against five others in a very important criminal case in Alberta, against Dr. Klotz and others; and in my mind he is a very able man. And in a case that was mentioned by somebody here, the W. P. case—no, I do not think it was that case—but Dr. Boyd gave an opinion in an application for leave to reopen the case. He was not a witness in the case originally. He had not given an opinion before. Colonel LaFleche, Colonel Sherwood and myself heard that case two or three years ago and turned it down; that is, we did not grant a pension at any rate. Then his solicitor, a Winnipeg gentleman, applied for leave to reopen, and I think he spoke to me before he brought it up and asked me if a certificate from Dr. Boyd would be good material. I agreed Dr. Boyd was a very able man, whatever he says we have to pay attention to. He did finally produce a certificate or opinion of Dr. Boyd. Now that man, Mr. Mutch, was claiming for death from myocarditis, the disease was really coronary thrombosis—perhaps it was. The fact however was that his death certificate said he died of cancer of the liver; but in going over the case in trying to make out a claim for pension they got some opinions which said that this man likely died of coronary thrombosis. That is, the immediate cause of death, that is what caused him to die suddenly like this; a condition of the heart—not cancer. He would have died in a month or so anyway from the cancer, but that does not make any difference.—They contended he died of a heart condition, attributable to service; he would have died of this other condition in two or three weeks time and notwithstanding they claim he would be entitled to pension, which if proved we would not disagree with. Dr. Boyd's opinion was that the man died of coronary thrombosis. Sir Eugène Fiset would know what that is.

Sir EUGÈNE FISET: A clot.

WITNESS: He said that was due to arterio sclerosis. Now, the man at time of death was 59 years old, and we accepted Dr. Boyd's certificate absolutely. But he had no arterio sclerosis due to war service—there was no such claim set up, and Dr. Boyd's opinion was based on arterio sclerosis, which there was no evidence had any relation to war service; and in that case it almost stands to reason it would not, the case of a man 59 years of age. That case was brought up here as a horrible example of what we do. And these are the facts.

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There was another case under the heading J. V. That case never came before us at all. The man got entitlement from a quorum. It never came before us, although it is cited as one of the instances of cases that we turned down, and as being a horrible example of what we do. It never came before us at all. I looked it up and found it had never come before the court. There were other cases there that I would say on which there might be differences of opinion between people, but on the whole all I can say is that the court is doing the best it can to administer the law as we find it. If parliament thinks that we should allow sympathy or distressing conditions as grounds for granting pension, parliament can say so by putting it in the Act. But, it says that it must be due to injury or disease incurred on or attributable to service.

*By the Chairman:*

Q. How do you interpret the benefit of the doubt clause, section 73?—A. As you can see, that is a big subject.

*By Mr. Mutch:*

Q. It has been stated here in evidence that you more or less follow a prescribed routine of operation. I do not say that, but I give you the opportunity of answering it?—A. I will say this, Mr. Mutch, that the benefit of the doubt section is applied, I was going to say 100 per cent of the cases; that is, we use it in every case where it is possible to use it. If a case is open and shut, clear cut, there is no question of doubt in it, and you do not need to use reasonable doubt. But, suppose I give you a case of reasonable doubt, perhaps it will illustrate it. There was a case here before the courts called the Skitch case—Mr. Minister will remember it.

The CHAIRMAN: That is settled and done with long ago.

WITNESS: That case had been going on for years. The federal appeal board had given a favourable decision to which exception was taken by the old commission, on the grounds of jurisdiction or something of that sort. But, anyway, the thing was up before us I do not know how often. All the medical testimony was against that claim. Dr. Goldie of Toronto, who is regarded as one of the best men in Canada, an internationally known man; Dr. Klotz, whom I have been told is one of the five best doctors in the world—I am advertising these fellows too much perhaps—Dr. Graham, who was another specialist of outstanding ability; and all of these were agreed, and when you get two or three such authorities together it is pretty hard to get past them. I think Sir Eugene will agree with me on that. Well now, that case came before us with all these opinions against the claim. We went down to Toronto and heard these men ourselves after they had been on record a dozen times. We found that there was some doubt in that case. It was only on reasonable doubt that we could go. We examined Dr. Goldie. He was of the same opinion as he had been before. He stuck to his guns. Dr. Klotz was ill so they could not get him, but Dr. Graham was there and we examined him. He was still of the same opinion. But, we nailed the thing right down to the question of doubt. The man died of coronary thrombosis, he died suddenly. He had had an abscess in his leg, acquired in the war, and he never could get rid of it. We felt that there was some relationship between that abscess on the leg and this heart condition; that is, that it affected the blood vessels and so on, but these doctors could find no ground for it, that is there was nothing in the medical literature that would bear it out. And I can remember saying to both of them, "here is this man with an abscess in his leg, continually breaking down, it must have set up some infection in the blood and if it affected one part of the vascular system why should it not affect the heart, why should it not affect the coronary artery. But they would not agree with us. I remember asking that question myself—and the rest of us asked

similar questions—I said, are you prepared to say that there is no possible or probable doubt about that, a man in that condition? Well, they said, of course there must be some doubt. And it was really on that doubt small as it was that we gave that widow her pension.

*By Mr. Mutch:*

Q. Apparently the decisions in the three cases where you actually reheard the witnesses yourself would justify us recommending to people who apply to us that they insist on the appeal court hearing the evidence in question?—A. I hope they won't think we are Santa Claus or anything like that.

*By Mr. Isnor:*

Q. Dealing with the reference you made to General Ross' statement in connection with the benefit of the doubt clause, you stated he was favourable to most of your decisions or the duties of the court?—A. Yes.

Q. In the statement which you presented to us on behalf of the Canadian Legion of the British Empire Service League, he does not criticize the court's decisions, but he says:—

We ourselves make no specific representations, recognizing that this body is to all intents and purposes a court, with all the rights of a court and entitled to the respect of the court, and we would not like to associate ourselves with criticism which would be considered improper in regard to any of the other courts of the land. In view, however, of the existence of what we may describe as a dissatisfaction in regard to this body, we suggest that the committee should make some inquiry with a view to determining whether there is any justification for the criticism and if so, whether any steps could be taken to remove any cause of criticism.

You also mentioned that he was chairman of the committee, and in the report on page 39 he states:—

At the same time I am of the opinion that this section as interpreted does not go as far as I am sure parliament intended it to go.

A. Yes.

Q. The thought I had in mind is whether you as president on assuming your office in the appeal court put a different interpretation on that particular clause. I am trying to find out what is causing this dissatisfaction. Is it due to the interpretation that you as president may have put on it? Is that what is causing a certain amount of criticism?—A. No; I have often wondered what that meant. He says, You interpreted it properly according to the law, but it does not go far enough, according to that interpretation, but I cannot find fault with it. I do not think it goes as far as parliament intended it to go. In other words, they should amend the act to make it a little broader than we have interpreted it. I think that is what the meaning is. He says:—

As I have already indicated, I cannot, from a strictly legal standpoint, find any fault with the interpretation by the court of appeal, of section 73, the benefit of the doubt clause. At the same time I am of the opinion that this section as interpreted does not go as far as I am sure parliament intended it to go.

I think he means this, parliament intended it to go farther than it does go.

Q. He either meant that or your interpretation does not go far enough.—A. Well, I know it has often been talked about that that section might be amended to make it wider; but I have never found anybody who could do it. At least I have never found anybody who could frame a section that would go any farther than that, as it stands to-day. He says we have interpreted it from a legal standpoint properly. I do not know what else we can do.

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*By Mr. Green:*

Q. Criticism has been made in several cases to the effect that it required a 40-page judgment to prove a man was not entitled to a pension. There is a question whether there could not have been a doubt in that case.—A. I never heard of a 40-page judgment, but if you will call it to my attention I might know; I do not think I ever wrote it, and I never heard of any at all.

Q. That point has been raised several times before the committee and it was stated that there were several cases of that kind.—A. Here is one thing I intended to say to you as members of the committee before I came down here; wherever a doctor's certificate or the doctor's evidence is favourable to a man and it is founded on the proven facts of the case, I do not know of any case in which we did not adopt it. That is, if there were three or four adverse medical opinions and there was one by a doctor of any standing at all who understood the facts of the case, who was not misled as to the facts, I do not know of a case where we did not accept it. In fact, we were always glad to find a case like that to give the soldier a pension. The trouble is that in very many cases the doctors giving the opinions have a wrong knowledge of the facts. They are assuming that this man comes home sick, that he had tuberculosis when he arrived home from the front, but the facts show differently. We have a case down there now where a man is claiming for something. He said he was all crippled up with rheumatism or something from the time he got back up until now; but we found that in 1923 or 1924 he took out a \$5,000 insurance policy. His questions and answers are there, and he said he had never had any illness at all. The doctor's certificate shows that he examined him and found everything in order. How can you reconcile things like that, when his records are clear of any disease. He had claimed for no disability, and we find him insuring his life for \$5,000, two or three years afterward, and stating that he had no illness, nor any trouble with the lungs, liver, kidneys or anything else. Now, if he goes to a doctor in 1930 and the doctor examines him and finds he has something wrong, nephritis, or something like that, and he tells him a long story which is not true, how can that doctor's certificate be worth anything? It is of no value unless it is based on true facts. I think that must be clear to you as a lawyer, Mr. Green.

*By Mr. Mutch:*

Q. How do you obtain that evidence with respect to examination for insurance?—A. It is generally on the record. It comes from the photostatic copy of the application for insurance, from the insurance company.

*By Mr. MacNeil:*

Q. Does the court deal exclusively with the evidence presented to the quorum?—A. Yes; we are bound by that evidence.

Q. You do not take steps to secure additional evidence?—A. very often the applicant himself admits that his evidence falls short of proper proof, but since the hearing he has procured a certificate from somebody or other evidence, and he will apply for a remission of the case so that he can get that evidence in. Sometimes we will hear the evidence ourselves if he desires to put in extra evidence, or we will send it back saying: "If this fellow had had his case carefully prepared he might have made out a claim."

Q. Have you encountered many cases where evidence has not been properly prepared and submitted to the quorum?—A. Very many.

Q. Do you reserve your decision in such cases until the evidence is completed?—A. We take any case as we find it, but very often we can see it has not been carefully prepared, that it is a flimsy case. It may look as though the case was badly prepared in the first place due to the fact, perhaps, that



the applicant had no case. He made his claim and wanted to get a pension if he could, and was unable to get any better evidence; or it may be the best evidence that the advocate could procure under the circumstances.

*By the Chairman:*

Q. Do you run across many cases of appeals by applicants which in your opinion are absolutely frivolous?—A. Hundreds of them.

Q. Cases in which there is no hope for them at all?—A. No; and they would not have been appealed if the applicant had had to risk ten dollars.

*By Mr. MacNeil:*

Q. I am thinking of a man who is not familiar with the requirements of the Pension Act and possibly has not secured expert assistance in the preparation of his case, and evidence that might have an important bearing on his case has not been placed before the court. Have you any suggestion to make as to how the rights of that particular man may be safeguarded, assuming that if the evidence had been carefully prepared and properly placed before you his claim would have been meritorious?—A. In most cases an advocate has something to do with the preparation of his claim. Very few go up themselves; most of them have an advocate acting for them. If the applicant fails to draw certain evidence to the attention of the advocate it may be overlooked; but I do not know how you could overcome that except by giving very careful instructions to advocates to be sure to get all the evidence available. If a man comes along and gives an advocate a little piece of evidence and nothing more, I suppose you cannot blame the advocate if he does not bring out unknown evidence. In most cases, however, as far as I can remember, the advocate always appears.

*By Mr. Cameron:*

Q. It has been suggested that the words "and with special reference to the war strain which he endured" should be added to the end of Section 73, the benefit of the doubt section of the Pension Act. In interpreting that section heretofore has any weight been given to the war strain the applicant endured?—A. Always. That comes up in every case. I have often had heavy and hot arguments with the other members as to the effect of war strain in connection with certain cases. The benefit of the doubt runs through all the cases; otherwise not one pension in one hundred would be granted to-day. At this length of time from the war there must be some difficulty in getting satisfactory evidence. Memory is uncertain. Personally I cannot remember lots of things that occurred five or ten years ago, but some applicants will come along and give you most vivid details of what happened twenty years ago that nobody on earth could remember under ordinary conditions, and that of course requires proof.

Q. That is not just my point. Take the case of a man brought up in the front line and rather badly shocked but not hospitalized at all and subsequently discharged as perfectly fit. He now comes forward with some complaint that he says is allied to the shock suffered at that time. There is no continuity whatever. Do you give that evidence material weight when it comes before the appeal board?—A. Yes. That man would probably be claiming for neurasthenia or some nervous condition. Supposing he was blown up in 1917 or 1918 and discharged fit, actually fit I mean, and carries on for several years, and in 1927 or 1928 he becomes nervous,—is that the kind of case you have in mind?

Q. Yes. Do you give that evidence definite weight regardless of continuity?—A. Yes; and that is where the doctors' opinions come in. The doctors say that where a man goes along for ten years without any sign of nervousness and then develops nervousness, then if his nerves were all shot to pieces at the

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time as the result of that blowing up he would have manifested it right then or soon afterwards, and you would look for some continuity. But where you find that the first time he showed any nervousness was ten years afterwards, and his history on file with the Soldiers' Settlement Board or the vocational training authority or something of that sort shows that he was perfectly all right during all those years; perhaps you will find that took a soldiers' settlement farm and has had hard luck with his farm; his wife has become ill and his children have become ill, and he gets into a nervous condition. All the evidence would go to show that his nervousness was due to his tough luck after his war service.

*By Mr. Mutch:*

Q. We have many farmers in the western plains who are on an even keel in spite of hardship and misfortune for years, and it seems to me that a man might withstand misfortune for five to ten years and then crack up?—A. That was my opinion, that if a man actually got blown up and knocked out and that sort of thing he would have some after-effects therefrom, and I have argued it by the hour and have not been able to get a single soul to agree with me in the absence of continuity of symptoms.

Q. Mention was made of what purported to be a correct transcript of a judgment by the court dealing with an applicant who had been blown up, in which it was stated that probably the man suffered some inconvenience at the time?—A. That case is misunderstood. That was only one little phrase out of a paragraph, and if you look at the judgment you will find that is not the spirit of the language. The member who wrote that judgment was all through the war from beginning to end, and he never intended such a statement at all. That was not the point. If I remember rightly, the man was a cook back of the lines where they were farming. I think they did some farming in France during the war, and he was a cook.

*By the Chairman:*

Q. The forestry battalion, probably?—A. I say if a man can show that he was actually blown up and actually injured, I mean buried, and had a very bad time and perhaps laid up for a week or two afterwards. I would say I would spend a lot of time in trying to show a connection, but if there is no continuity the doctors will not agree with me. I do not know whether Sir Eugène Fiset would agree with me or not.

*By Mr. Mutch:*

Q. Roughly, what percentage relates to neurological diseases cases?—A. What number of cases?

Q. Yes, I mean where difficulties arise with that kind of case?—A. Very seldom. Generally it comes from nobody knows where. They do not allege anything like what you are saying except in some cases where they have been blown up. Take that case I mentioned where the man said he was blown up in 1917, there was no record that he was blown up at all. We regard that as just a ground for trying to make out a claim; that is, there was no corroboration of it and the circumstances did not bear it out; he was not sent to hospital, or anything like that, he walked about. That is his own story, that he was blown up. "

*By Mr. Cameron:*

Q. Your view would be that the addition of those words would not add much to the interpretation of that section?—A. I do not think it would at all. I do not see how it would, because, as I say, at the present time I believe every adjudicating body, the commission, the quorum and the court, is giving full weight to that so-called benefit of the doubt.

The CHAIRMAN: Do you want to hear Judge Hyndman this afternoon?

Mr. GREEN: I think it would be very interesting to hear Judge Hyndman on the unemployment situation.

The CHAIRMAN: Yes, in connection with your world-famous report, Judge Hyndman.

Mr. REID: And the meritorious cases.

The CHAIRMAN: Then we shall meet this afternoon at 4 o'clock.

(Whereupon the committee adjourned to meet at 4.00 this afternoon).

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### AFTERNOON SITTING

The committee resumed at 4 o'clock.

Resuming the examination of Mr. Justice J. D. HYNDMAN.

The CHAIRMAN: I understand that Mr. Hyndman wishes to refer to some matters which he omitted this morning.

WITNESS: I will not take more than a moment. There were one or two points mentioned, I noticed, in the evidence of some previous witnesses to which I would like to refer. One was that the court as well as the commission, I fancy, and the quorums were influenced to some extent by the amount involved in the claim. Now, that is not so. I can say that without any question at all. Of course, when a claim is very large, amounting to, perhaps, \$10,000 or \$15,000 or something like that and calling for immediate payment—I do not think we would be doing our duty unless we examined it very carefully. We have a case before us now which involves a payment of about \$17,000, back payment, an immediate cheque for \$17,000. That fact is not going to deprive anybody of pension, but it certainly makes us a little more careful than if it were a \$10 matter. We want to see that the evidence is there to justify it before the government pays out a large amount of money like that.

On that point I want to make it clear that we are not influenced by that except that we do investigate the case very carefully to see if pension is warranted. We had a case—to prove what I say—we had a claim a couple of years ago which at the time looked as though it involved about \$30,000; It went back to 1919 and 1920, or something like that. It was a very nice case—I mean it had a lot of sides to it—but we decided in favour of the claim, although I am bound to say that the merits were not very great. I mean that he was not a combatant officer; he did not have any actual fighting or anything of that sort, but he died soon after discharge, and the cause of his death was thought to have originated during his service. Doctors differed on the case, but they did express a doubt, and decision was given in favour of the widow. At that time it was supposed to have involved about \$30,000 back payment, and \$1,500 a year for a good many years afterwards. However, it turned out that the law did not permit of all that back payment for reasons which it is not necessary to state now.

Then there is another point, to the effect that we are likely to be influenced by the minister or the department, or something of that sort. I may say without any hesitation at all that since I came to Ottawa not a single member of the past or present governments, neither the present prime minister nor the

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last prime minister, has ever said a single thing that in any way influenced the court one way or another. There has been absolutely no interference. The present minister undoubtedly will corroborate me in that regard. We have been left to decide cases on our own responsibility and we have not been interfered with in any manner, shape or form.

*By the Chairman:*

Q. It has been suggested here that you acted upon instructions as to economy in rendering judgment in a large number of cases, particularly at the beginning of your work on the pension appeal court. I think that suggestion has been made here several times?—A. On that point I can say this, that neither the former ministers nor the present minister, nor the former prime minister nor the present prime minister has in any way, shape or form, tried to influence us, or has done anything which would mean that the treasury ought to be protected. That has never been suggested to us, and the only occasions where the last prime minister took any interest in the matter at all was in connection with two claims in which he was interested, before he became leader of the opposition. He had fought a case for a widow before the old federal appeal board; finally she got entitlement from the tribunal and the matter came before us on appeal by the Crown and we set it aside. The prime minister was very disappointed about it. He did not grouch, but was very disappointed.

Another case in which he was interested was that of a man whom he thought was entitled to a pension and we could not see it that way. Those are the only suggestions I can recall.

Mr. Justice Taylor, when he was on the appeal court, realized that that impression was abroad and it was difficult to meet it, of course, and he suggested—whether the present minister or the committee will think there is anything in it is for them to say—that the court ought to be more or less separate as to its location from the other parts of the organization so that no one could very well say it could be influenced by the department or the government or the minister. I know the present minister would not think of interfering. That is a thought I leave with you. That point was brought up when Dr. MacLaren was minister. We tried to get offices in one of the other buildings but we could not do so because there was no space available, so we had to stay where we were. Personally I am not concerned about it, but it is an idea that might be worth while considering.

There is another point: We have had medical advisors attached to the court whom we consult from time to time upon medical questions we do not quite understand, and such medical advisor or consultant usually writes a little precis of the case for us, and frequently would give us his opinion on it. I may say that where he advised in favour of the claim in every case we acted on his opinion, although sometimes we thought it rather extreme. In some cases we have gone against his advice and thought there was some reasonable doubt, although he could not see it and no other doctor around the building could see it; but other outside doctors on some occasions gave opinions to which we thought we should pay some attention, although they did not look very good. We have never gone against the advice of a doctor provided he knew the facts even though it was a pretty flimsy looking claim.

Then some people think we have legal technicalities up there which are difficult to overcome. We have no technical rules at all. When I first came to Ottawa, from my experience in the other court I realized that technicalities occupied a great deal of time and I said: "We will not make any rules until we need them. Let us get at the facts of each case in the easiest way, and not allow any rules to stand in the way of a man getting a pension." As a matter of fact we have no rules to-day that affect any claim brought up before us.

Mr. Mutch this morning said: "What is the good of the appeal court if it grants only a few appeals?" and I answered that it was a check; that that is the principal object of a court of appeal. Whether that is the idea of other people or not I do not know. As proof of that, however, during the last few years the commission itself has cancelled something like 250 to 400 or more of their own awards per year; they have actually changed the awards they gave, some several years before and some recent ones, having come to the conclusion that the claim was not authorized or proven. I do not know whether they are doing it now, but they had been doing it all along. There have been appeals from those cases to the quorums and the quorums have usually upheld the commission.

*By Mr. Reid:*

Q. Have they cut off a man's pension after having granted it?—A. Yes; but if a person obtained a pension on improper grounds it was their duty to do it, I think.

Q. I rather take the view that Mr. Justice Taylor expressed on one occasion, namely, that if the commission made a mistake they should carry on?—A. That may be Mr. Justice Taylor's view but I do not think it is my view. There is only one law that can authorize pension and that is the Pension Act, and if a man does not comply with the requirements of the Pension Act he is not entitled to pension.

Also a large number of soldiers who are interested in the welfare of soldiers generally say that if you grant pensions that should not be granted you are doing the soldiers more harm than good because it arouses friction. One man says: "That chap has a pension and I have had just as good service and am as badly off as he and I would like a pension, too." However, I am only telling you my views in that regard.

*By Mr. Reid:*

Q. It has been stated that since 1933 you had ruled to the effect that the meritorious cases did not come within some decision?—A. I saw that. In the first place let me say that no meritorious claim can come before us until it has been rejected by the commission. One must make application to the commission first. If the commission refuses the application it can be renewed before us. I think the Act says they can apply to the court for leave. First they have to get leave, and if the leave is granted the case is argued. So there is no case which comes before us that has not been rejected by the commission. First of all a man must exhaust all his rights or his widow must exhaust all her rights to pension as of right under the Act. He or she must fail all around first, and then can apply to the commission for a meritorious allowance. If the commission grants it, that is the end of it. If the commission refuse it he or she can apply to the pension appeal court and the matter comes before us just as it went before the commission. We have not laid down any rules at all, none whatever. We deal with each case on its own merits; but we have stated from time to time that in order to enable a person to obtain a claim of that sort he must show that it is something beyond the ordinary conditions of service, and so forth.

I have brought up here the last decision I wrote in that regard. It was the case of a man in Victoria who had never been overseas but who had had long and very splendid service in the militia and also I believe in the permanent force. He died, and of course they could not prove the right to pension resulting from war service. His widow claimed meritorious pension and I think there were a large number of petitions from prominent people including the Bishop of

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British Columbia and people like that, and they did their best. It was a distressing case from the widow's point of view, so we considered it and I wrote this decision, which perhaps may set out my view:—

I have carefully review the record, including the Chief Pensions Advocate's memorandum of January 27, 1936, and must also add by regrets to those of the Commission in not being able to conclude that this is the kind of case contemplated by Section 21 of the Act.

There is no doubt that the deceased ex-soldier had a very creditable military career but, unfortunately, it was not of such a nature as would fall within the expression in the Section referred to, namely, "specially meritorious."

It must be remembered that there were about 619,000 enlistments in the Canadian Expeditionary Forces and, of these, about 425,000 proceeded overseas. Some 60,000 died on service and there are at present about 80,000 disability pensioners. It will thus be seen that there are, allowing for deaths since the war, more than 200,000 ex-soldiers, most of whom saw service in an active theatre of war, and who are receiving no pension. Allowing for slackers and others whose service might not be said to be creditable, there are a very great number whose service was praiseworthy and meritorious. It will thus be seen that, if a loose interpretation of Section 21 were permitted, it would almost do away with the necessity of proving a right to pension under Section 11 of the Act and would lead to universal pensions.

We have had many applications under section 21 in which the facts as to the merits of service and distress of the widow have been on a par with or even more distressful than in this case and, unfortunately, we have had to disallow such claims. This court has held, in connection with many of these cases, that unless there is something outstanding or conspicuous, as compared with the ordinary meritorious service, provisions of the section cannot be applied.

Realizing as I do the extreme financial needs of the applicant in this case, and, whilst it would give me much pleasure to be able to accede to her request, nevertheless, in view of the law as interpreted by this court, it is with much regret that I am compelled to say that the application must be refused.

As I say, it all depends on the particular facts in each case. I can tell you of another case, the only case where we did grant a pension. There was a widow in Vancouver whose husband, five sons and two daughters, I am not sure whether all the five sons, but four of them at least, and the father were in the war. The husband was an Imperial soldier, and the two daughters were nurses. The whole family, you might say, were in the war. The youngest boy enlisted at the age of fourteen, and he was in France when he was fifteen or sixteen years of age, and he was wounded. In 1916, I think it was, or shortly afterwards, he was sent home as not being fit to serve further. In 1919 he contracted the Spanish flu and died. The appeal was on the ground that the widow needed some support as the other sons were unable to help her. She was working for a living, was an old lady, and we thought it was a "specially meritorious" case and we gave that mother an allowance. That is the only one we have given. But if you start granting pensions under that section, I do not know where you would wind up, because there might be more pensions under that clause than under section 11.

*By Mr. Mutch:*

Q. It is practically non-operative?—A. It operates in a few cases, but I do not think it was ever intended that it should be given to anybody just because he happens to have been a soldier and had good service, because you might



have to pension, as I say, about 200,000 of them eventually. If you start on that, I do not know where you will wind up. It is a difficult subject to deal with, but that is the interpretation that we put on it, that is has got to be specially meritorious. That is what the Act says, and if any particular case is no better than, say, 100,000 others, I do not think you can say it is specially meritorious.

The CHAIRMAN: Are there any other questions on pensions?

*By Mr. Green:*

Q. The suggestion was made the other day that if the Crown appeals a favourable decision from a quorum or from the commission that that decision should only be reversed by the court of appeal on a unanimous judgment, in view of the benefit of the doubt section. What do you think about that?—A. I think that that would be a very good thing. You mean that three would have to sit at all times?

Q. Yes, because that was the idea.

The CHAIRMAN: The idea, as I understood it, was that three would sit all the time, but that no favourable decision of the commission would be reversed by the appeal court unless three concurred.

WITNESS: Unless the whole three were unanimous?

The CHAIRMAN: Yes.

WITNESS: Well, personally, I would rather welcome it, but if you provided for that you can see that there could not be courts running all the time with the same three men on them. If you appointed another member to the court, it might work out, or if you made provision for an ad hoc judge.

*By Mr. Green:*

Q. Why would it not be possible for the same court to sit?—A. Suppose one man got sick, or for some reason or another he could not be there. You cannot sit twelve months in the year, you have got to have a little holiday. You get very stale too on this business.

Q. You think the other principle is sound?

The CHAIRMAN: Provided it was arranged that there was at least one additional member of the court so that there would always be three sitting. Then the suggestion is that if there is a reversal of a favourable decision by the quorum, it must be by the unanimous opinion. In other words, if there was one dissenting, he would rule?

Mr. MUTCH: If you got a chronic dissenter, he would make a hero of himself in a short time.

Mr. REID: There would be no appeal from a decision of the Canadian Pension Commission. I thought every decision they made was final.

The CHAIRMAN: We are talking of all cases, not just meritorious cases. We are talking of all cases which have been brought to the attention of the Appeal Court by the reviewing officer. In other words, Crown appeals, in order to be successful, must have the unanimous consent of the court of appeal. Is there any difficulty about that?

WITNESS: I cannot see anything against it. As I say, I would rather like it myself, but you would have to enlarge the court because you could not expect three men to sit twelve months in the year.

*By Mr. Green:*

Q. The way it is now, two men on the quorum might be in favour of the applicant and one man on the Court of Appeal, yet the two judgments in the Court of Appeal rule?—A. That is right. How would this scheme do? Before

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1933 we all had to sit unless by consent when two could sit. How would it do to leave it that way, leave it to the man himself to say whether or not he wanted three or would be satisfied with two?

*By the Chairman:*

Q. That is a way of giving a certain extra benefit of the doubt to the man?—A. Yes.

Q. And that is a way of getting around it and giving him more benefit of the doubt in cases of appeal by the Crown?—A. You have one more to work on.

Q. The Crown has to have unanimity of the court before it can get a decision reversed?—A. Yes.

Q. Is there any objection in principle to that?—A. I do not see any objection to that, no. If you look at the past history when three members were sitting nearly all the time except when the applicants consented to two members, when Colonel LaFlèche was a member and Colonel Sherwood and myself, I read some of the dissents this morning, and I think Colonel LaFlèche dissented in 52 cases out of 3,000, Colonel Sherwood dissented in 26 and I dissented in a couple. That gives you an idea of the likelihood of dissents taking place, and whether it would be worth while.

*By the Chairman:*

Q. That would mean that roughly 75 or 100 more pensions would have been granted under that system?—A. Yes, that is the way it would have worked out.

*By Mr. Green:*

Q. We have also had a number of complaints about the Court of Appeal only having two members sitting at a time?—A. It is always better to have a larger court. You have more chances of getting a favourable decision when you have one more to agree with you. We used to have a rule in Alberta where the court had to sit either three or five. I do not know that it made very much difference. I do not think it would make very much difference one way or the other, personally, but if it would satisfy the soldier body the other might be a very good idea.

Q. There was some question about whether or not the right of an applicant to go back to the Pension Commission time after time should be restricted?—A. Oh, yes, that is in the first hearing of the cases?

Q. Some said that it should be restricted and others thought it should be left open; then we had the suggestion that a man should have been allowed to go to the quorum only once, that he get medical examination before he goes to the quorum, and then he must understand that it is his last chance to get to the quorum.

The CHAIRMAN: Put all his ills in the one claim.

WITNESS: Of course, that is something that does not come directly under the court business. But I have always thought that it was a great mistake to have half a dozen decisions of the commission before the matter came to the quorum. By way of illustration, a man would write in and say, "I want a pension. I have got rheumatism due to war service." Naturally they could not grant a pension on that. But they put a formal decision on file dismissing his claim; that is, not granting his claim. Then, in a month or two, he comes back with another letter, with a doctor's certificate attached. They would find that that was not satisfactory and they would sit again and give another decision. Then perhaps a month afterwards he would come along with something else, and there would be half a dozen decisions in the one case. My idea of the thing always was that before the commission—which is a judicial body,

an adjudicating body—gave its decisions, somebody—either the man or his advocate—should say, "Here is our case; that is all the evidence we have, and we want you to consider it," put it before the commission. Then the commission would consider the case after the man says is all he has. Then I would say that he ought to be sent to the quorum, if he wants to go any further. Why give him another hearing before the commission if he says he has no more evidence?

*By the Chairman:*

Q. With regard to accumulating his claims, in your experience have you had men come up before you on two or three occasions?—A. Yes.

Q. With different claims, claims arising out of different disabilities?—A. Yes, over and over again. A man will come along with a claim for, say, flat feet; and he gets a decision, perhaps, or he does not get a decision. Then in another year or two he comes along with a claim for bronchitis. He may get a decision or he may not. Then you will find in perhaps another year or two he will come along with a claim for a valvular disease of the heart or some disease of that sort. That is he must have known about this last disability when he first made claim. I always thought that when a man claimed compensation he ought to claim for everything he has got at that time. I know in the United States they make the claimant include everything before they consider it.

*By Mr. Green:*

Q. The suggestion was made that he should be given a thorough medical examination before he goes to the quorum, so that all his disabilities will be disclosed at that one time.—A. Well, I can see that would be a great advantage in many cases. At the same time it would be a fine way for a man to get a free examination if he did not have a valid claim. I mean, I think there ought to be some discretion in the commission to say whether or not he ought to have an examination.

*By Mr. Mutch:*

Q. Are you not obliged to pre-suppose that a claim for pension is an honest claim, for the time being anyway? You cannot subject people to the idea that they are just joy-riding.—A. It depends. That is what I say. Discretion ought to be with the commission. They might find on his documents or somewhere in the case that this was a claim without any foundation. Why should they put that man in the hospital for a week or so to be given an examination, when on the face of things possibly there is very likely nothing in it? I think it would be a good thing to have an examination before it goes to the quorum, provided they leave discretion somewhere in order to avoid unnecessary expense.

Q. You are asking for discretion to prejudice his case?—A. No, not prejudice it. He has got his own doctor. His own doctor says, "This man has got such and such trouble;" and the pension doctors may not think there is anything in it at all, and they may be quite satisfied that there is nothing in the case. Well, he can get an examination finally if he needs it. Whether you should give it to him before he goes to the quorum is a matter of policy for the department, I should think. But my own opinion is that many cases with no merit at all would be filling the hospitals with examinations. That is my own opinion.

*By the Chairman:*

Q. That is, if it was necessary to take every claimant into hospital for observation?—A. Yes.

Q. I can see that that would involve a lot of expense, and useless expense too?—A. In many cases.

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Q. But almost anything would be better, in your opinion, I take it, than having him come back time and time again with different disabilities?—A. I always thought that that was an absurd procedure, that a man should be allowed to come back over and over again instead of preparing his case in the first instance; that is, to the best of his ability. He ought to say, "There is all the evidence I have. I saw Doctor so and so and Doctor so and so, and here are their certificates, and here is my evidence, all I have got." Then the commission ought to sit down and consider his claim. But to consider every letter he writes in and call that a decision always seemed to me to be an absurd thing. It would save an awful lot of trouble if he had to prepare his case properly in the first instance.

Q. You have had actual experience since you have been there of men coming back two or three or more times with different disabilities each time?—A. To the commission, not to us.

Q. To you?—A. Oh, yes.

Q. Who have gone right through?—A. Yes.

Q. Through the commission and quorum?—A. Yes, and back again with a brand new claim.

Q. On two or three occasions?—A. Yes, often; not two or three, but often.

Q. The same man?—A. Yes. He would have two or three different pension entitlements granted him.

*By Mr. Green:*

Q. There has been the suggestion made that there are too many lawyers on the Court of Appeal, and that there should be a doctor and a layman?—

A. I would not like to say anything about that. That does raise a point that perhaps you might consider. So far as my experience goes on the court, our difficulties are not with medical questions at all. I mean, we get the doctors' opinions on things and we are not doctors at all. It takes a doctor to diagnose a case and that sort of thing. But the difficulties are in finding the facts upon which the doctor gives his opinion. A man claims, we will say, that he had rheumatic fever during service. So far as the court is concerned rheumatic fever is rheumatic fever. We do not need to know about rheumatic fever to decide whether or not he had it on service. We will say there is nothing on his documents—nothing at all. He says, "I had rheumatic fever in January, 1917." He has a claim now for valvular disease of the heart, we will say, which is a very common sequela of rheumatic fever. If he had rheumatic fever on service and a doctor comes along several years afterwards and says that he has a valvular disease of the heart, and it is proved that he had rheumatic fever on service, we would not, without other circumstances to disprove it, hesitate to give that man a pension for valvular disease of the heart. The trouble is to prove that he had rheumatic fever; and that is a subject of investigation by a court. The ordinary courts of the land are trying medical cases all the time. They do not know anything about medicine, but they get at the real facts of the man's case. If a doctor was on the court there, I do not know if it would work in favour of the man or against him; because the doctor would probably allow his own opinion, perhaps, to sway him against the opinion of the other doctors in his favour, or something of that sort. I do not know. If you get sick, you go to a doctor. If you want a legal question examined into, you go to a lawyer as a rule.

Sir EUGÈNE Fiset: Or a member of parliament.

The CHAIRMAN: It is better to keep away from both.

WITNESS: You have to run into them sometime or other. If you want my honest opinion—of course, you would say I am a prejudiced witness—I would say that a doctor would not be a good judge for the court.

If you want my judgment, you have got to have lawyers to investigate them. That is my opinion. You see, we have jurisdiction to interpret the Act, and we have had some very difficult legal questions to determine. The doctor and the layman would be entirely lost on that, just the same as the layman would be lost on a medical question. But we don't care, if a doctor comes along and says he has examined this man and says he has this, that or the other disease on service and he has a certain disease to-day, and from a medical point of view this present disease is due to the disease he had on service, that is the doctor's part of it. It is the lawyer's function, or the court's, to find out whether he actually had these things on service, and the etiology of them, or things of that sort.

Sir EUGÈNE Fiset: More or less. You were telling about these incidents in the man's service, surely you would take a certificate as to facts.

WITNESS: We would accept his certificate as to facts, yes. But sometimes we find that a certificate is not true; that is, doctors are mistaken as to the facts.

*By Mr. Mutch:*

Q. But not as to opinion?—A. No, that seldom bothers us at all.

*By Sir Eugène Fiset:*

Q. Judge, you just said a moment ago that sometimes mistaken facts appear in a certificate furnished the commission by a doctor who states that not only of his opinion but of his own knowledge a man suffered from such and such during service. That connects it up with the question of disability. That is not only a statement of medical evidence, it is also a statement of fact. Do you accept those statements of fact as such, or do you investigate them? —A. We investigate the facts, Sir Eugène; that is, we often find that 15 years or so after the war people can easily be mistaken about a year. Sometimes a year makes all the difference in the world in a case. If a man comes home from the war and it is shown that he was say laid up with bronchitis or a lung condition of some kind and was treated by the doctor right after he comes home, say he comes home in May and was treated in June or July and that fact was established, it is not difficult for us to say on the medical opinion that he is entitled to pension. But unfortunately we find that the doctor is very often wrong about his year altogether and it turns out to be three or four years after that, do you see. Those are the things that we have to investigate, whether the doctor is correct. Very often we find that he is mistaken, and it is proved that he is mistaken, and the facts disclose that the man was perfectly well for two or three years afterwards, that he then met with some trouble, caught cold or pleurisy or pneumonia or something of that sort. It is the fact of his having been treated immediately after he got back that is often the difficult thing to prove.

*By Mr. Mutch:*

Q. In the case where a man develops a chest condition, say bronchitis or tuberculosis, a condition which has been developing over a period of years, and the doctor comes along and says I saw this man in 1923 and he was definitely tubercular and in my opinion his condition in 1923 was attributable to war service; what do you say in a case like that?—A. If he gives good reasons for it there is no reason why I should not believe him.

Q. That is to say, if he gave you medical reasons for it; that might not be good legal reasons?—A. We will say that a man goes into a doctor's office in 1923 and he says, I have a cold, doctor, and so and so, and the doctor finds he has, we will say, bronchitis and perhaps even T.B.; now, can that doctor give an opinion as to when that originated without knowing the facts of the man's life?

[Mr. Justice J. D. Hyndman.]

Q. I think, personally, you could find that the doctor is the most expert witness you can get under the sheer presumption clause?—A. Supposing a man a year before had been out in a storm, had fallen in the water, got a chill and taken pneumonia; what would you say then?

Q. I do not think that a reputable doctor who is a specialist in that line does much guessing on that line?—A. I am sorry to say that they do.

Q. I think it is heartless to presume against a medical opinion in a case like that where it is purely a matter of opinion. In my estimation a reputable doctor is an expert witness; and with all due deference I think that all pension courts presume who question him?—A. Then, take the case I gave you this morning: The doctor gave his certificate that he attended this man in 1919, and then he swore later that it was 1924. Would you take his opinion?

Q. There was probably some explanation?—A. All I say is this, that when we have a case, that is one where it looks as though it requires some fairly decent proof—for instance a man who does not come along until 1931 or 1932 and claims for bronchitis due to a cold which he had in 1917, 15 or 16 years before—why, we all know we have had colds. It requires a little proof.

Q. Then you think a legal opinion is to be preferred to that of the doctor in a case where a man complains of a chest condition, say bronchitis or tuberculosis, although that condition only becomes apparent when he goes to the doctor in 1931 or 1932. He gets that opinion and you say it is open to question?—A. In a case like that, the doctor was probably told a story which he believed, but which on investigation could not be substantiated. He was giving his opinion on the facts which were given to him. But if these facts are not established or disproved I think any doctor will agree with me that the opinion is valueless. If I go to a doctor to-day and say I have something wrong with me and he is trying to find out what it is the doctor starts investigating my history, and if I cannot give him my facts, if I say for instance that I was perfectly well up to last year, I never had any trouble at all, I doubt very much whether he would tell me it went back 15 years.

Q. I doubt very much if he would too.—A. That is the situation, that the doctors do not get the real facts of the case.

Q. Are you suggesting that they give definite opinions without having these facts as a general practice?—A. I suppose the doctor is entitled to believe what his patient tells him. It seems to be correct but it is not correct. I think any doctor will tell you that he has no reason to disbelieve a man who is talking to him. But if he did not know him until just a year or two before I suppose he is entitled to believe him and give his opinion accordingly, and it is on the assumption that these are really true facts, that is all.

Q. He certainly is staking his reputation on it, if he has nothing more than that?—A. I think doctors are perfectly justified in saying, Well, this man told me a certain story; I took his word for it that he was laid up in hospital in France or England for two or three months, something of that sort, and then after he got home was in bed for a couple of weeks now and then. That would be evidence to indicate that he had bronchitis all through the period and I think he would be perfectly justified in saying it went back to war service. The facts on which he gives his opinion are not always substantiated. That is all I say.

*By Mr. Cameron:*

Q. Take a case of this kind where a doctor gives as his opinion a certain finding based on definite facts. You check up the facts and you find they are completely accurate. Then do you interfere at any time with his findings as a result of those facts? Do you interfere with the medical opinion based on facts?—A. No; we would give him his pension on that. We always accept the doctor's opinion if founded on the facts.



*By Mr. Mutch:*

Q. That is not the case I had in mind.—A. I thought we were talking about the doctor's opinion. We do give effect to the doctor's opinions, but if we find that one of the facts upon which the doctor gave his opinion, not one but a vital fact, a material fact or set of facts are not true; then the doctors themselves will admit that their opinion is of no value. That is all I say. We are not concerned so much with doctors' opinions. That does not worry us a bit, the medical end of it. I say that the main object is to find out the facts of the case; then the medical opinion can be brought in very easily.

*By Mr. MacNeil:*

Q. Some evidence has been given to the committee that the medical authority has claimed that the disability pre-existed enlistment and was probably of a constitutional origin, and decisions have sometimes been given without any finding of fact just merely a matter of opinion. What attitude does the court take in connection with medical opinion of that nature, where there is no finding of fact?—A. If the medical opinion is to the effect that such condition is a congenial condition or a constitutional condition, something of that sort, I suppose we would have to give effect to the medical opinion, if it was all that way. But suppose there was a difference of opinion; suppose three doctors come along and say the man's condition is congenial, that the man had it from birth, and two others come along and say no, this thing arose from service, or arose years afterwards, I think we would give the benefit of the doubt to the soldier and say, Although it may probably have been congenial, still there are a couple of medical opinions in his favour and we will give effect to them. But you do not very often run across cases like that. Take the case of what they call amblyopia exanopsia—

The CHAIRMAN: Where did you learn that one?

WITNESS: I do not know whether you know that one. Some of these eye conditions are congenial; men are born that way.

*By Mr. MacNeil:*

Q. I am referring specially to neurological cases, mental cases?—A. These are very difficult cases, the neurological cases. We have to get medical opinions on those cases.

Q. Would you care to venture any opinion as to the disability? Do you think sub-section B of section 11 of the act should be clarified in regard to the congenital effect?—A. Well we are more or less in the hands of the doctors there, are we not? After all, if the opinion is that that is a congenital condition I do not know what we can say. As lawyers all we can do is take the opinion of the doctors.

No deduction shall be made from the degree of actual disability of any member of the forces who has served in a theatre of actual war on account of any disability or disabling condition which existed in him at the time at which he became a member of the forces; but no pension shall be paid for a disability or disabling condition which at such time was wilfully concealed, was obvious, was not of a nature to cause rejection from service, or was a congenital defect.

What is a congenital defect depends on medical opinion. We as lawyers don't know anything about it.

Q. I suggest it was the intention of parliament in introducing that phrase into the act to deal only with those disabilities which were more or less obvious, a born congenital defect. To include those cases which are mental cases, mental disabilities of a general nature may be merely a matter of presumption?—A. Of

[Mr. Justice J. D. Hyndman.]

course, doctors say a thing that is congenital is with a man all his life. If it is aggravated by service he is entitled to pension to the extent of the aggravation but not for the extent of the disability before he enlisted. In regard to neurological cases I must say you have to depend on medical expert opinion. We never go on our own opinions of those things; we have to take the doctor's opinion. I will give you a little case that comes to my mind, where a chap had a scar on his side here, which indicated something connected with his lungs, lung trouble. He must have had drainage from the lungs, something of that sort. When he enlisted he had that scar on his side. That was proven. He later on contracted tuberculosis, and the contention was that that scar there made it obvious that he had tuberculosis before he ever enlisted. We held that that was not so; it did not indicate that. It might have been to a doctor's evidence that he had had tuberculosis, but to the ordinary individual, the unskilled observer, it was not so. We held that was not evidence of tuberculosis, and I think he got his pension. Then there is the case of obvious congenital condition. A man may be born with something wrong with his foot, that anybody could see was there before he enlisted.

*By Mr. Green:*

Q. That would be covered by the words "was obvious."—A. It might come under that, but it would be a congenital effect, too.

Q. Would it not be fairer if those words were taken out?—A. It certainly would be to the benefit of the soldier, I will say that, if parliament saw fit to do it.

Q. Would it be unfair to take it out?—A. Unfair to whom?

Q. Either way, the people of the country or the soldier?—A. It might be unfair to the people of the country. If a man had a club foot—

Q. That comes under the obvious part.

*By Mr. Mutch:*

Q. There is no trouble about the obvious part?—A. Suppose a fellow had a defective foot when he joined up and later on through marching, and through various other causes it was further aggravated. If he got to France he would get the full pension. Suppose like many fellows he never got to France at all, just served in Canada or England and as time went on there was a sort of progression there, and his foot was worse at the end of the war than when he went in. Would you give him full pension for that, although the aggravation amounted to only about ten per cent of the whole? I am afraid I would not like to offer a private opinion on that. That is a matter of policy.

Q. Does not the trouble come in this way. In obvious cases there is no question of deciding how much the aggravation is?—A. That is a matter of assessment. We have nothing to do with that. We have no jurisdiction in connection with assessment. It is all done by the commission.

*By Mr. MacNeil:*

Q. In mental cases do you accept the medical opinion in regard to the origin, if there is no definite history of a mental defect prior to enlistment?—A. Well we have had very very few mental cases. I do not suppose we have had twenty in the whole time. That is my impression. I do not think the court ever gets many. I fancy there are cases both ways, where the opinion was that the fellow was mentally defective before he ever enlisted. I will say this, that in cases where the man went crazy on service, actually went crazy the first time on service, my impression is the fellow would get the pension. The trouble is many of the cases we have had to deal with are where the man went insane ten years or so after discharge, and the medical opinion is generally to the effect that he was bound to go that way anyhow. That is what is called dementia præcox.

Q. Do you accept that kind of speculative medical opinion?—A. That a man went crazy during war service?

Q. That he would go crazy anyway?—A. I am not saying we accept anything, but if a man did not go crazy until ten years afterwards, you require then some very good medical opinion as to whether his war service caused it.

Q. You would probably think it was trying to get a pension that set him crazy?—A. You think he was crazy because he tried to get a pension, is that it?

Q. Well, that was not what I meant, though. There are cases where it is suspected they were driven crazy trying to get it?—A. They have only one chance to go crazy because of us. I will tell you, however, that that has given us a lot of trouble. We had a case where a fellow was diagnosed as insane only in 1927, I think it was—that is the first sign there was any insanity, and the medical evidence was altogether against such a thing as it being due to war service. However, we thought there was enough in the case to send it back and we sent it back, I do not know what became of that case; it has never come up to us since. Whether pension was granted or not, I do not know; we sometimes give them another chance anyway. However, it will strike any reasonable person as rather odd that a man should go crazy ten years after service just because he happened to have a uniform on. Some of those fellows never saw any fighting in France at all. They went crazy in Canada; at least, their service was in Canada. I held in favour of a fellow in Halifax. He never left Halifax, but he was in the Halifax explosion. He went through that. He did not go insane at the time, he went into an asylum down there as a sort of orderly, and it was a little while after that that he went crazy. Whether it was the asylum that sent him crazy or the Halifax explosion, I do not know. However, in the evidence I held there was reasonable doubt in the case. I confess that. I do not know that I am very proud of it.

*By Sir Eugène Fiset:*

Q. Will you tell me, sir, did you begin to investigate the medical evidence submitted to you from the beginning of your service on the appeal court, or was it after a period of two or three months when you saw these cases creeping up that you started to investigate those cases as far as medical evidence was concerned?—A. A case comes before us to-day—

Q. To-day I quite understand that, because there has been practice; but during the first few months that you were in charge of the appeal court, did you start the practice then of investigating facts as far as medical evidence is concerned?—A. Absolutely.

Q. Even then?—A. Yes. All through. Absolutely.

The CHAIRMAN: It was exactly what you were doing in the civil courts?

WITNESS: Exactly the same thing. We treated each case on its merits; and I will tell you this that we have admitted as evidence there a great deal of stuff that would not be looked at in a civil court at all. For instance, in a civil court they do not take a letter from a doctor, or a certificate, or even an affidavit; the doctor has to come and give evidence; but in many of those cases the doctor never saw the forum at all. The doctor just wrote in a letter saying, "I remember this man; I treated him fifteen years ago, and his present trouble is due to war service." I do not think any court would accept that just that way. The tribunals and the quorums were established for the purpose of hearing these people.

Sir EUGÈNE FISET: Did the same practice apply before you took charge of the appeal court?

The CHAIRMAN: Judge Hyndman was the first one on the court.

WITNESS: Yes. I was the first one on.

Sir EUGÈNE FISET: I am talking of the Board of Appeal.

[Mr. Justice J. D. Hyndman.]



WITNESS: That was not the practice then.

Sir EUGÈNE Fiset: That is what I wanted to establish.

WITNESS: The jurisdiction of the Federal Appeal Board was very restricted. They could not hear witnesses as the tribunals were able to do or as the quorums are able to do, and when the commission turned down a case the idea was that the man would have a chance out in the field to bring his witnesses and prove his case if he could. If they only read the letters the commission had and had only the evidence the commission had already, they were not in any better position than the commission. The object of the act was to give the men a chance to bring their witnesses before the court, to put them on oath and let them give their evidence.

The CHAIRMAN: You will remember they said they would give their decision on the evidence and record as submitted to the Pension Commission.

Sir EUGÈNE Fiset: That is what I had in mind, when I asked the question.

The CHAIRMAN: They could not get any other evidence.

*By Mr. MacNeil:*

Q. With regard to mental cases, there has been some discussion as to those cases which were granted pension originally for mental disabilities. They were subsequently reviewed and the basis of entitlement was changed under subsection B of clause 11, with regard to that portion of disability of constitutional or congenital origin superimposed during the service. Do I understand that very few of those cases ever reached the court, and you have not adjudicated on those cases?—A. I have adjudicated on them, but I say that there are very few of those cases which come before us. I cannot think of any at the moment at all. There were a few but I cannot think of any of that particular class at the moment. Very often you will find statements like this, that the neurasthenia, for instance, was superimposed on a psychopathic personality, or something of that sort. The fact that it was a psychopathic personality makes it easy for the neurasthenia to work, and they will give him a pension for a neurasthenia superimposed.

Q. It was in reference to those cases I was asking. If the entitlement has been previously established, and the case has been reviewed and the medical authority has now determined there is psychopathic personality of constitutional or congenital origin, would you, in such cases, accept medical opinion unless it is based on fact?—A. Oh, if the medical opinion is there, we will accept it, certainly. If the medical opinion said that we would act on it. We have never gone against medical opinion if it is based on the true facts of the case.

Q. I am suggesting in this instance that it might not be based on fact—if there is no history of some mental defect prior to enlistment?—A. All we could take would be the authority of the doctors, experts—neurological experts who say that this is a congenital condition with something superimposed on it.

*By Mr. Mutch:*

Q. And no facts that you can find in connection with that?—A. They can only go on the medical knowledge or experience or something of that sort, I suppose.

The question of cancer is a very difficult one. We have many of these cases.

*By Mr. MacNeil:*

Q. Have you any general ruling with regard to self-inflicted wounding?—A. Personally I consider that self-inflicted wounding is intended to mean a deliberate act of wounding, where a man shoots himself in the hand or foot in order to get out of service; but where it is as the result of accident due to negligence in my opinion he is still pensionable, but there is a grave doubt about that. I may be wrong about that. It is a nice point.

Mr. GREEN: Would it be in order to ask Mr. Justice Hyndman for any suggestions with regard to the proposed appeal division of the pensions commission?

WITNESS: I really have not gone into that very carefully, Mr. Green. I do not see very much advantage in it. My own honest opinion is that the present set-up is a good one if it is properly worked. If you have an appeal division it simply means that you will have to have three commissioners on the court, and I suppose they would go on and do the same thing that the court is now doing. I am not saying much about that, because I have never studied it.

*By Mr. Green:*

Q. Could we have any suggestions about the unemployment assistance bill?—A. Well, I did know a good deal about that a year ago, but I do not know that I can do any more now than answer any questions put to the best of my ability.

*By the Chairman:*

Q. Did you read the bill?—A. Yes.

Q. Does it to some extent carry out the idea you had in mind?—A. Yes. We found there was so much to consider in connection with unemployment that we decided we could not possibly lay down anything definite. At the time we were given to understand they wanted our report as early as possible for the last parliament because they wanted to put legislation through then, and we were working along until about this time, about May, and parliament was likely to prorogue almost at any time and we were urged to get this report in. We found we could not possibly get a complete report in. Associated with me on that committee were two of the finest gentlemen I have ever been associated with, Colonel C. B. Price of Montreal, and Mr. W. B. Woods of Toronto, who worked like Trojans on the report. They are both very able business men in a large way, and they were extremely anxious to do something to help out in that respect. If there is any virtue in the report at all, I must give the credit largely to those gentlemen. What the bill states is exactly what we recommended and what we thought was the proper procedure. We thought it would take a year to do anything definite, and we thought if the government would appoint a special commission of a temporary nature to deal with these matters that would be the proper thing to recommend.

*By Mr. MacNeil:*

Q. In the evidence reviewed by the committee did you find indications of acute distress?—A. Oh, we certainly did. There was a great deal of distress, no question about that. In fact, we were very distressed ourselves while listening to many hard-luck stories. We came in contact with many hundreds of those men in Toronto, Montreal, Verdun and Ottawa. We did not go outside those places. We certainly did feel, as we stated in the report, that where some of those men were not getting enough from the municipalities to keep body and soul together it might be right and proper for the government to contribute a little more in order to render living possible at all. There are certainly a lot of tough cases.

Q. Were you able to form any opinion as to whether the distress was mainly due to the depression or to their physical disabilities?—A. To be honest with you, Mr. MacNeil, I thought the depression was the principal cause of it, although there were a lot of cases of men who appeared before us who looked as if they could not do a decent day's work. It may have been as the result of being out of work for a year or two that they were in that debilitated condition, but I think the depression had a good deal to do with it; although as I say, there were a great many cases where the fact of their being soldiers and having suffered in that respect was the cause.

[Mr. Justice J. D. Hyndman.]

Q. Were they handicapped to an unusual degree because of disability?—A. No; I did not see anything of that sort. I think most of them were men who appeared to be all right physically except that they were run down; they were thin and gaunt and looked as if they were half starved and did not have enough to eat. But they looked as if with a little care they might be brought back to fairly normal condition. There were some very sad cases. For instance, I remember one man in Montreal who was 58 years old who looked as healthy as could be. He had been a telegrapher in his day. He said he had been looking for a job for two and a half years. He was only able to do telegraphy. You could not put him out digging trenches or anything like that. He said he had tried to get a job, but there was no chance of getting one. We saw that it was just hard luck in his case, that is all. However, it would be pretty difficult to place a good many of them; they would not be any good as farmers.

Q. In some of the evidence given before the committee it was shown rather conclusively that ex-service men in certain age groups by reason of war service could not compete successfully with other men when employment was available?—A. I think that is probably true. The average age of these men was 47, 48 or 49, and they were pretty well used up. You could not expect them to go out and do a real hard day's work in the condition we saw them; but whether that was due to the last two or three years of unemployment and up against hard luck I do not know; they did not have any war disability.

Q. I thought possibly from your experience not only on the committee but also on the appeal court you could form some opinion as to the effect on these various groups of disabilities which although not pensionable were indirectly traceable to service, men prematurely aged and lacking physical stamina?—A. I think there were a lot of fellows like that who became dislocated as the result of the war and never got back into the proper routine again. They were restless and did not get their jobs back when they returned from overseas and got into something that did not suit them, and they drifted around. That was indirectly due to war service but not in the sense that the Pension Act contemplates.

Q. Do you think that is a substantial factor?—A. I think so

*By the Chairman:*

Q. Are you satisfied with the present bill as drafted?—A. Yes, I think that is an excellent bill if it is worked out by a committee

*By Mr. Green:*

Q. Of course, it does not provide for any local veterans' councils in the different cities?—A. No.

THE CHAIRMAN: The committee could easily make a recommendation to that effect.

WITNESS: I remember that the Legion, the Army & Navy Veterans and all other veteran organizations gave us to understand that they were only too willing to cooperate in every way in whatever might be decided upon, and our idea was that if this central committee could make arrangements all through the country with the local legion and army and navy and all other organizations they could work out a scheme covering the whole of Canada, a cooperative sort of scheme that would take care of as many as possible. You could not expect the three men here to do it themselves. You would have to get the co-operation of various organizations. I know Mr. Woods of Toronto is a large employer of labour. His concern employs about 2,200 men in seven factories, and he understands the labour situation pretty well. It was after long, long sessions over this matter that we worked out that idea, whether it is good, bad or indifferent. It was the idea of Colonel Price and Mr. Woods, both of whom are excellent business men.



The CHAIRMAN: We have heard the views of Mr. Justice Hyndman since morning, and he looks rather tired. Are there any further questions to be asked?

Thank you very much, Mr. Justice Hyndman.

WITNESS: I thank the committee for a very patient hearing.

The CHAIRMAN: I am informed that neither Mr. Woods nor Dr. Cathcart is present.

Mr. REID: Is Mr. MacDonald here.

The CHAIRMAN: I think the last witnesses to be called are Dr. Cathcart and Mr. Woods. If you desire to examine them to-morrow we can adjourn now until eleven o'clock to-morrow morning.

Whereupon the committee adjourned at 5.20 o'clock p.m., until 11 o'clock a.m. on Tuesday, May 19, 1936.

## APPENDIX A

## PROGRESS REPORT TO APRIL 30, 1936

(C.C. Appeal from P.T. 2946)

Number of appeals taken by Applicants from decisions of Pension Tribunal . . . . . 3,537

## DECISIONS RENDERED

*On appeals taken by Applicants—*

Allowed on Merits . . . . .	31
Allowed on Jurisdiction . . . . .	35
Disallowed . . . . .	3,386
Remitted for re-hearing . . . . .	26

Decisions pending . . . . .

3,478  
1

3,479

Appeals from decisions of Pension Tribunal remaining unheard . . . . .

58

Number of appeals taken by the Crown from decisions of C.P.C. Quorums . . . 170

## DECISIONS RENDERED

Allowed . . . . .	36
Disallowed . . . . .	32
Remitted . . . . .	46
Withdrawn . . . . .	14

Decisions pending . . . . .

128  
9

137

33

Number of appeals taken by Applicants from decisions of Canadian Pension Commission . . . . . 554

## DECISIONS RENDERED

Allowed . . . . .	7
Disallowed . . . . .	270
Disallowed on Jurisdiction . . . . .	1
Remitted . . . . .	8
Withdrawn . . . . .	209
Pending . . . . .	3

498

Number of appeals taken by Applicants from decisions of C.P.C. Quorum . . . 3,528

56

## DECISIONS RENDERED

Allowed . . . . .	19
Disallowed . . . . .	2,433
Disallowed on Jurisdiction . . . . .	5
Remitted . . . . .	48
Withdrawn . . . . .	38
Pending . . . . .	15

2,558

970

1,117

## RECAPITULATION

## APPEALS REMAINING UNHEARD

Applicant appeals from decisions of P.T. . . . .	58	Increase	3
Applicant appeals from decisions of Quorum . . . . .	970	Increase	142
Applicant appeals from decisions of C.P.C. . . . .	56	Increase	8
Crown appeals from decisions of Quorum . . . . .	33	Decrease	1

Net Increase  
1,117 for month 152

Applications for leave to the Commission to entertain a fresh application for Pension

Allowed  
420

Disallowed  
532

Applications for leave to renew applications for Compassionate Pension or Allowance under Section 21 of the Act

Allowed  
4

Disallowed  
49

Applications for Compassionate Pension or Allowance under Section 21 of the Act

Allowed  
1

Disallowed  
3

Registrar,  
Pension Appeal Court.

### REPORT COVERING MONTH OF APRIL, 1936

Notices of Intention to Appeal filed on behalf of Applicants:

From decisions of Pension Tribunal.. . . . .	10
From decisions of Quorums, C.P.C.. . . . .	283
From decisions of C.P.C.. . . . .	12

Appeals taken by the Crown.. . . . .	6
	<u>311*</u>

Appeals by Applicants from decisions of C.P.C. Quorums, withdrawn—3.

#### DECISIONS RENDERED

*Appeals from Quorums, C.P.C.—*

Allowed.. . . . .	1
Disallowed.. . . . .	131
Remitted.. . . . .	2
	<u>134</u>

*Appeals from C.P.C.—*

Disallowed.. . . . .	2
Remitted.. . . . .	1
	<u>3</u>

*Appeals by Applicants from decisions of Pension Tribunal—*

Disallowed.. . . . .	7
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*Appeals by Crown from Quorum, C.P.C.—*

Allowed.. . . . .	1
Disallowed.. . . . .	2
Remitted.. . . . .	2
	<u>5</u>

Appeals finally disposed of during month.. . . . .	<u>149</u>
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*Leave to Commission to entertain a fresh application—*

Granted—5	Refused—7
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*Leave to Renew under Section 21 of the Act—*

Granted—0	Refused—2
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*Application for Compassionate Pension or Allowance under Section 21 of the Act—*

Granted—0	Refused—0
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\* Letters have also been received from applicants signifying intention to appeal, as follows:

From decisions of Quorum, C.P.C.. . . . .	52
From decisions of C.P.C.. . . . .	2

Registrar,  
Pension Appeal Court.







CA1 X62  
- 36 P26

SESSION 1936

HOUSE OF COMMONS

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SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

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MINUTES OF PROCEEDINGS AND EVIDENCE

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No. 20

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TUESDAY, MAY 19, 1936

## WITNESSES:

Dr. J. P. S. Cathcart, Chief Psychiatrist, Department of Pensions and National Health.

Dr. R. J. Kee, Commissioner, Canadian Pension Commission.

OTTAWA  
J. O. PATENAUDE, I.S.O.  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
1936





# MINUTES OF PROCEEDINGS

TUESDAY, May 19, 1936.

11 a.m.

## MORNING SITTING

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 11 o'clock, a.m., Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Beaubier, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Isnor, Lapointe (*Matapedia-Matane*), MacNeil, Mulock, Mutch, Power (Hon. C. G.), Reid and Thorson.—14.

Mr. Thorson, Convener of the Sub-committee on Agenda, reported that the Sub-committee had received and considered representations from the following organizations:—

Association Nationale des Vétérans of Montreal. This was ordered printed as Appendix "A" to to-days evidence.

Disabled Veterans' Association, Vancouver; read into evidence.

Ontario Veterans' Protective Association; read into evidence.

Federation of Ex-Service men's Security Pension Committee; read into evidence.

Young War Veterans' Association; read into evidence.

Submission from Major General Griesbach regarding veterans of the South African War; read into evidence.

Submission from Duncan Stuart, Calgary, regarding Needy Veterans of the Boer War; read into evidence.

Suggestions from General A. E. Ross, M.D., Kingston, Ont.; read into evidence.

Suggested amendment by Colonel J. L. Ralston; read into evidence.

Unemployed Ex-Servicemen's Association; printed as Appendix "B" to to-day's evidence.

Mr. Green submitted representations from the Veterans of the Inland Water Transport of the Royal Engineers, which he read into the evidence.

Mr. Mulock, Convener of the Sub-committee on Correspondence, filed a list of individual cases which had been acknowledged by the Sub-committee. This list was ordered printed in the evidence.

The Chairman filed a memorandum from Mr. Scammell, Secretary of the Department of Pensions and National Health, to the Minister. This was ordered printed as Appendix "C" to to-day's evidence.

Mr. MacNeil submitted Sessional Paper No. 53, dated January 22nd, 1936, relating to Returned Soldiers' Insurance. This was ordered printed as Appendix "D" to to-day's evidence.

Dr. J. P. S. Cathcart, Chief Psychiatrist, Department of Pensions and National Health, was called, examined and retired.

The Committee adjourned at 1.15 o'clock to meet again this afternoon at 4 o'clock.

## AFTERNOON SITTING

4 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4 o'clock, p.m., Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch and Reid.—13.

Mr. Green filed a submission from the Imperial Veterans' Corps in Canada, B.C. Provincial Command, which was ordered printed as Appendix "E" to to-day's evidence.

The Chairman filed a submission presented by Mr. MacLean (*Prince*), on behalf of the Canadian Legion, requesting amendment of the Returned Soldiers' Insurance Act. This was ordered printed as Appendix "F" to to-day's evidence.

Mr. MacNeil filed a list of submissions he had received, and this was ordered printed as Appendix "G" to to-day's evidence.

Mr. Thorson filed a submission from Mr. C. J. Broderick, West Vancouver, B.C., on behalf of the unorganized veterans. This was ordered printed as Appendix "H" to to-day's evidence.

Dr. J. P. S. Cathcart, Chief Psychiatrist, Department of Pensions and National Health, was recalled, examined and retired.

Dr. R. J. Kee, Pension Commissioner, was called, examined and retired.

The Committee adjourned at 6.05 o'clock, p.m., to meet again to-morrow, Wednesday, at 4 o'clock, p.m.

J. P. DOYLE,  
Clerk of the Committee.



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

May 19, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 11 o'clock. Hon. C. G. Power, the chairman, presided.

The CHAIRMAN: Mr. Thorson has a report to make from the sub-committee.

Mr. THORSON: The sub-committee on agenda has a further report to make with regard to representations made by a number of organizations.

The first representation comes from the Association Nationale des Vétérans of Montreal.

There are a number of resolutions that are placed before the committee. I do not know whether I should read these resolutions, or whether it would be the wish of the committee to have them filed as an Appendix to the proceedings of to-day.

The CHAIRMAN: File them as an Appendix "A". Every member has received copies, and I think we might as well have them on record.

Mr. THORSON: Then the representations made by the Association Nationale des Vétérans will appear as Appendix "A" to-day's proceedings. There are a number of resolutions many of which are of an interesting nature and have not been presented by any other body of veterans.

The next representation comes from the Disabled Veterans' Association of Vancouver. The members of the committee will perhaps recall that this association desired representation at government expense. A telegram was sent to them outlining the position that had been taken with regard to all returned soldiers' organizations and suggesting that this organization might submit a brief. The Chairman of the committee is in receipt of a letter from the Disabled Veterans' Association of Vancouver voicing a protest against an apparent discrimination, and reiterating the desire of this organization to appear personally before the committee.

With regard to the suggestion made by the committee that a brief should be submitted, the secretary of this organization says:—

A brief expressing the views and recommendations of the Association together with resolution in respect to widows has already been submitted.

Mr. A. D. Darlington, the secretary of this association, says:—

The former embodied the same subject matter as was laid before the Hyndman Commission, and it is felt that no good object would be served in altering the same; that no circumstances have ensued which would warrant doing so.

Then he goes on to say:—

Our contention still is that personal representation is a more reliable and satisfactory medium, and that the Disabled Veterans' Association of British Columbia, with similar organizations in other provinces, are more truly representative of such men who will benefit by the three bills now under discussion, and should, therefore, be enabled to present their views in that manner.

The resolution with regard to widows, referred to by Mr. Darlington, was contained in a letter to the Minister dated February 21, 1936, and I suggest that this might also appear in to-day's proceedings.

Then there is also a resolution of the Disabled Veterans' Association endorsed by a general meeting held on February 19, 1936, which might appear in the record.

Mr. GREEN: That resolution is not very long, is it?

Mr. THORSON: It is very short.

Mr. GREEN: Could it be read?

Mr. THORSON: Yes. The letter of February 21, 1936, reads as follows:—

The Honourable C. G. Power  
Minister of Pensions and National Health,  
Ottawa, Ontario.

SIR:—I am instructed to forward for your earnest attention a Resolution which was moved and unanimously endorsed at a General Meeting of this Association held on February 19th.

There are many war widows living in practically destitute circumstances in all parts of this Province. Collectively they are a serious and growing problem to various municipalities' welfare agencies and benevolent organizations and are to be found living in the poorest conditions on every round of the Social Worker.

Our contact with other bodies who, like ourselves are meeting with instances of this problem every day, gives us every confidence in asserting that at least some additional State responsibility is indicated.

We shall therefore be very greatly obliged if you will give the matter of these indigent war widows your earliest attention.

Your comments on the resolution will also receive our respectful consideration.

Yours respectfully,

A. D. DARLINGTON,  
*Secretary.*

The resolution reads as follows:

RESOLUTION OF THE DISABLED VETERANS ASSOCIATION  
ENDORSED AT A GENERAL MEETING HELD  
ON FEBRUARY 19, 1936

ATTENTION DEPARTMENT OF PENSIONS AND NATIONAL HEALTH.

Whereas it is realized that a regrettable number of veterans' widows are now public charges, and that this number will be greatly increased in the next few years on account of the high percentage of mortality among veterans from causes not recognized as due to active service; and that many widows who have given the best part of their lives to the care of disabled ex-service men are affected by this adverse ruling; that many of them also are not protected financially by insurance, or on account of having children of adult age, or being childless, are not eligible for benefit under the Provincial Mothers Pension Acts, or being under 70 years of age are not entitled to the Old Age Pension:

Be it resolved that (1) The Department of Pensions and National Health be requested to introduce legislation similar to the War Veterans Allowance Act that will ensure a continuous allowance;

or

(2) The Dominion Government be requested to devise some measure that will ensure financial immunity apart from Municipal or Provincial Relief;—*For Veterans Widows not Otherwise Provided for.*

Certified correct according to Minutes  
of a General Meeting held February 19,  
1936.

(SGD.) A. D. DARLINGTON,  
*Secretary.*

The other representation is a copy of a letter addressed to Mr. Justice J. D. Hyndman, Chairman Veterans' Unemployment Commission, dated April 4, 1935. It was submitted to the Hyndman Commission.

The CHAIRMAN: That was submitted last year. You may put it in, if you like.

WITNESS: The Disabled War Veterans' Association wish to make the same submission to this committee that they made to the Hyndman Commission. It is not very lengthy, so perhaps it may be printed in the record:

#### THE DISABLED VETERANS' ASSOCIATION,

April 4, 1935.

Mr. Justice J. D. HYNDMAN,  
Chairman Veterans' Unemployment Commission,  
House of Commons,  
Ottawa, Ont.

DEAR SIR,—We have to thank you for your telegram of April 2 and much as we would prefer appearing personally before your Commission we are none the less appreciative of the opportunity afforded of setting before you in writing our views and recommendations. These, in our particular case, concern the small pensioners, men who are to-day facing a discriminative and difficult labour market with a two-fold handicap—those of age a disability.

To-day, even from cursory glances at trade conditions, it is becoming more and more apparent that industry cannot absorb men of 47, which is the average age of the veteran. Both the civilian and the physically fit veteran of that age find the fight for employment an almost hopeless one. But the disabled veteran, sustaining numerous and varied physical handicaps which are the aftermath of war, who can seldom conform to the strenuous requirements of labour, find the market is practically closed to them. This might be a temporary condition, capable of improvement, were it not for the factor of age.

However, even with that factor, we must not too hastily conclude that small pensioners as a body are incapable and therefore unemployable. For the most part it is our contention that they must be regarded as economic units whose faculties are more or less impaired. We do not of necessity scrap a machine that is weakened by excessive service; we would rather still use it to haul a lighter load. That principle applies to disabled veterans, many of whom are capable of light employment.



For them, we have decided that selected or sheltered employment is desirable. The term is unfortunately placed out of court when discussing individualist and competitive business; but it is, we suggest, admissible in speaking of the lighter tasks that are attached to the Government and Public Services.

A general classification brings the disabled veterans under three heads;—

- A. Men of intelligence who in some cases have been trained along special lines, their place in the business world has been taken by youth.
- B. Men of ordinary but no special training who are capable of work requiring only slight exertion.
- C. A general category of men who, under modern demands as to efficiency and endurance must, unfortunately, be classed as unemployable; though we still believe that some simple form of endeavour should be found for them.

Our recommendations regarding all of them must be subject to the principle that on no account should they be deprived of the benefits of Pension Legislation; but we submit some points which we hope may play a part in leading your commission to a satisfactory finding.

For your selection and approval they are as follows:—

1. The present Federal Relief scheme places the disabled pensioner in the category of a fit man by deducting the amount of his pension from the amount he is entitled to receive in relief; whereas a pension should be considered as compensation for a disability, needful to meet the expenses thereof, and that therefore no amount covering pensions up to 25 per cent should be deducted. Or, the scale of relief in force in 1932 should be restored.

2. All pensioners receiving relief should be registered for selected employment as specified in the following Point 3; arranging them in the groups described as A. B. C. In this connection the Department of Pensions should institute a special section of its various units to deal with the unemployment of pensioners.

3. Selected employment should be found for disabled veterans wherever possible according to age and standard of efficiency as ascertained from Groups A. B. C. without regard to political favours.

4. It is desirable that the age qualification for War Veterans' Allowances be reduced to 50 years. This would cover a number of men classed under Group C.

5. The introduction of a new pension scale based on the extra handicap imposed by severe modern conditions. This would obviously imply an increased indemnity for age.

While we are discussing a scheme for unemployment, and endeavouring to be constructive, may we state that it would be conducive to equity if men receiving from eighty to one hundred per cent pensions were retired from all Government and Public Services. This would effect economies and make some provision for men we have classified under groups A. and B.

At the present time there are very many of these highly pensioned men occupying positions in all government departments. But the existing situation is vastly different from what it was in 1919. Then the preference for highly pensioned men may have been justified because the small pensioners were 16 years younger and employment for them was comparatively plentiful. Conditions now, however, should not justly permit of double indemnities as exemplified in these cases—there

are one hundred per cent men that we know who are receiving government salaries plus allowances—when so many small pensioners are unemployed and in distress.

This is just a synopsis of our views. We are still hoping for an opportunity to explain them at greater length.

Yours respectfully.

Then in a later communication dated the 14th May, 1936, Mr. Darlington, Secretary of the Disabled Veterans' Association of Vancouver submits a further resolution for the consideration of this committee:—

MAY 14, 1936.

J. F. THORSON, Esq.,  
Chairman of the Sub-Committee on Agenda,  
Parliamentary Committee of Pensions and Soldiers' Affairs,  
House of Commons,  
Ottawa, Ontario.

DEAR SIR,—For the consideration of the Parliamentary Committee on Pensions and Soldiers' Affairs I am directed to forward the enclosed Resolution from the West Vancouver Branch of this association which is self-explanatory.

If your order of business will permit of its being submitted I shall be greatly obliged.

Yours very truly,

(Sgd.) A. D. DARLINGTON,  
*Secretary.*

The resolution reads as follows:—

## DISABLED VETERANS' ASSOCIATION

### WEST VANCOUVER BRANCH

### RESOLUTION

Whereas the average age of men dying subsequent to service in an actual theatre of war, is by reliable statistical data, given as but fifty-one (51) years, which may be evidence that war service was contributory to premature death.

Whereas the pensions of dependents of such men have, in numerous cases, been discontinued on the grounds that death was not attributable to war service.

Whereas the widows of such men in many cases are in impaired health and unable to adequately provide for their children.

Whereas the Canadian Pension Act should imply the principle that no man who saw actual combatant service should suffer on account of disabilities arising therefrom, nor his dependents be penalized thereby.

Whereas the amendments now being introduced to the Pension Act have so far not provided protection for dependents on the death of such veterans.

Whereas such a policy does not seem to be in accord with public opinion.

Therefore be it Resolved by The Disabled Veterans Association of West Vancouver, B.C., that the considerations so outlined be brought to the attention of the Dominion Parliament, requesting that legislation enacted placing the widows and dependents of men so classified, and where the need is shown, on pension provided by the State.

D. McTAVISH,  
*Secretary, West Vancouver Branch, The Disabled  
Veterans Association.*

Then there is a short representation from the Ontario Veterans' Protective Association, York Township Branch, Toronto, dated May 6, 1936, and reading as follows:—

### ONTARIO VETERANS' PROTECTIVE ASSOCIATION

YORK TOWNSHIP BRANCH

TORONTO, May 6, 1936.

CHAIRMAN,  
Special Parliamentary Committee on Soldiers' Problems,  
House of Commons,  
Ottawa, Ont.

DEAR SIR,—The above Association, comprising two branches in York Township with a membership of one thousand Great War Veterans, unanimously passed the following resolution:—

That we take exception to the stand taken by the Amputations Association in reference to the lowering of age limit for burnt out pensions and taking the small pensioner off Christie street relief. We submit to the committee that 55 years of age is the proper basis of entitlement and as relief for the veteran is a Federal responsibility that all veterans on relief should come under the jurisdiction of the Dominion Government. We would also ask that a representative from this body be heard by your committee.

Yours truly,

(Sgd.) J. LINGARD,  
*Secretary-Treasurer.*

Then the Federation of Ex-Service Men's Security Pension Committee of Toronto make a similar representation, dated May 6, 1936, and reading as follows:—

### FEDERATION OF EX-SERVICE MEN'S SECURITY PENSION COMMITTEE

TORONTO, May 6, 1936.

House of Commons Pension Committee,  
Ottawa, Ont.

DEAR SIRS,—At a meeting held on the 4th of May at the Legion Hall, Todmorden, under the auspices of the Federation of Ex-Service Men's Pension Committee, strong protest was raised at the alleged report through the Press of the suggestions made by the spokesman of the Amputation Association relative to the war veteran's allowance and relief to small pensioners through the Department.



It was further unanimously resolved that instead of any contemplated change in the relief allowances to small pensions, that the amount should be increased and the age for the war veteran's allowance reduced. I remain,

Yours very truly,

(Sgd.) J. W. PHILPOTT,  
*Secretary of Federation.*

Then there is a similar representation from The Young War Veterans Association of Winnipeg. This representation deals mainly with problems of unemployment, and recommends, among other things, the reopening of vocation training and requests that the returned soldiers preference in the civil service be made to function more to the benefit of the returned soldiers than it has in the past. I suggest that this communication, which comes from the secretary of The Young War Veterans Association, Mr. J. Gray, be printed as an appendix to to-day's proceedings.

Mr. MULOCK: Are there any examples mentioned—

Mr. THORSON: Perhaps I might read this representation, since it is slightly different from the other representations we have received:—

### THE YOUNG WAR VETERANS ASSOCIATION

WINNIPEG, Man.,

May 15, 1936.

Mr. J. THORSON, M.P.,  
Chairman of the Steering Committee,  
House of Commons,  
Ottawa, Canada.

DEAR SIR,—We a group of Young War Veterans who enlisted under the age of eighteen years and saw active service during the Great War, desire to bring to the notice of the Parliamentary Committee on returned soldiers problems the singular circumstances in which we find ourselves to-day.

The Hyndman Commission report Page 6, Paragraph 2, Article C mentions the above class, but does not include them in their recommendations, and at this late date we present the following facts for your Committee's consideration.

1. The average age of this group of veterans is 37 years.
2. A large percentage have not been able to successfully establish themselves in civil life.
3. Vocational courses were granted by the Government to minors but a large number were not cognizant of the fact.
4. Those who received vocational training find that with the further technical advance in industry and the professional requirements of business that they are unable to compete with the present day student.
5. Many of this group have failed in the examinations for civil service positions that are open to-day owing no doubt to lack of education.
6. Even if the War Veterans' Allowance age was reduced to 55 years it would be (18 years) before it would affect this group as their average age is 37 years.

I would also point out that at the age when we should have had normal growth and development we put forth all our strength and energy voluntary, and stood shoulder to shoulder with our more mature comrade to the detriment of our physical well-being, and while we in our extreme youth answered the call of our country and gave the formative years of our life to the nation, all we ask is the opportunity to serve in peace as we did in war.

We respectfully recommend:—

1. The re-opening of vocational training.
2. Sheltered employment.
3. The returned soldiers preference in the Civil Service be made to function more to the benefit of the returned soldier than it has in the past.
4. That firms employing 10 or more of the above group be given a subsidy for each person employed.

That is, subsidizing the industry for the benefit of the younger class of returned soldier:

5. That small holdings be granted close to the large cities and assistance be given to the veteran to become self-sustaining.
6. That the provincial and municipal governments be approached and requested to give employment preference to the above group, and where federal aid is given in public projects a clause be inserted to this effect.

Trusting that you will give this letter the same consideration that other veterans' organizations have had. Thanking you in anticipation,

I am,

Yours truly,

(Sgd.) J. GRAY,

190 Good Street, Winnipeg.

The CHAIRMAN: That is better than the other fellows who wrote in saying that they wanted \$250,000, and then wrote in to correct it saying that the amount should have been \$250,000,000. That is in the file. They said they had made a mistake.

Mr. THORSON: There have been also several representations made to the minister and to the committee on agenda with regard to veterans of the South African war. Generally, these representations can be placed before the committee through the submission from Major General the Hon. W. A. Griesbach. It is dated from the Senate, Ottawa, 28th April, 1936. It reads:—

Dear Mr. POWER,—I have your letter of the 24th instant, please consider what follows as my submission to your committee.

The South African War was concluded in 1902. Canadian troops serving in that war were partially paid by and were under the control of the Imperial Government. Very few persons were pensioned for the war in Canada and none, I think, by the Canadian Government. The youngest man who served in the Canadian forces in that war would now be about 55 years of age, many, of course, much older and there are probably some, the number unknown, who are in indigent circumstances. In a general way it may be said their claims to war veterans' allowance is on all fours with the claims of men who served in the late war, leaving aside, of course, purely legal definitions. The numbers involved could

not be very great and it will probably be found that those who might be entitled are already on relief while still others would be approaching the old age pension.

Yours faithfully,

(Sgd.) W. A. GRIESBACH.

SIR EUGENE Fiset: On this subject matter, Mr. Chairman, I also have received many letters from a number of the veterans who are still alive, as far as the South African war is concerned. And, of course, they would like to be treated on a par with other Imperial veterans who come to reside here in Canada. Their principal concern seems to be to ascertain whether or not there is some way by which they can be hospitalized. They think they ought to be entitled to treatment in our hospitals. I have one clear case in mind where the man is insane and his wife is supporting him at the present time. I think that case was brought to your attention by Mr. Weir, and he is asking if there is any possible way for this man to be admitted into one of our insane asylums controlled by the department.

The CHAIRMAN: I have had several of these South African cases, and we have been able to deal with some of them. I do not know whether we could deal with them legally or not. Part 1 of the Act creating the Department of Pensions and National Health, section 5, reads:—

The Minister shall have the management and control of all such matters as are assigned to him from time to time by the Governor in Council, relating in any way to the care, treatment or re-establishment in civil life, of all persons who since the 1st day of August, one thousand nine hundred and fourteen, served in the naval, military or air forces of His Majesty or any of His Majesty's allies, and to the care of the dependents of such persons.

So that would seem effectually to bar the South African veteran, but we have found a way to take some of them into hospitals.

SIR EUGENE Fiset: I think that is an important question.

The CHAIRMAN: The point of it is that this department was created for the purpose of looking after veterans of the Great War and not of any other war.

SIR EUGENE Fiset: Of course, you realize that these people are in a very awkward position.

The CHAIRMAN: Yes.

SIR EUGENE Fiset: What General Griesbach says there is not exactly accurate. These people were simply recruited here in this country. They were simply clothed, transported and paid while they were being transported to South Africa. On reaching South Africa they became Imperial soldiers and they were paid by the Imperial government and any pension granted to them was granted by the Imperial government, the Canadian government had nothing whatever to do with it. As the years went on the Great War occurred, and these special acts came into force applying to veterans of the Great War, and the South African veterans were never considered. And where their claim comes to the fore more now than at any other time is through the fact that you are giving special treatment here to Imperial veterans who came from England to establish themselves in Canada, supplementing their Imperial pension to an amount which will bring it up to the Canadian rate, and nothing of that kind was done so far as the South African veterans are concerned. Their numbers are extremely few. What they are more concerned about at the present time is hospitalization, if there is any possible way through the machinery of the department to meet their needs. If there is, I think it is up to us to do so.



Mr. THORSON: While we are on that subject, there is another very brief memorandum, which perhaps I might read at this stage. I think it is the memorandum that Senator Griesbach has in mind. It comes from Duncan Stuart, Bank of Toronto Building, Calgary, and is dated the 18th of April, 1936. It is put, I think, in a very excellent way. It stresses the need of veterans of the Boer War, and the small number of veterans who might be affected.

It is:—

Memorandum *Re*: NEEDEY VETERANS OF THE BOER WAR

The needy veterans of the Great War, or at least many of them, are in receipt of an allowance called the Veterans' Allowance, and there does not seem to be any good reason why the veterans of the South African war should not be put on an equal footing with them. As the total number of Canadians who saw service in Canadian Corps in South Africa would not exceed 6,000 or 7,000, it is estimated that those in need of assistance would not likely be more than say, 250 or 300, although of course there would likely be applications for a good many more.

The length of their service was not in the majority of cases more than two years and as nearly thirty-five years have elapsed since the conclusion of that war, it will undoubtedly be found that most of them have since successfully made their way in life. Further to cut down the probable number who would apply is the fact that though they suffered hardships from heat and at times a scarcity of water and typhoid fever, not then inoculated against it, these did not result in a general way in permanent disability or disease such as followed gassing, trench feet and shell shock.

The majority of them were then young men with an average age of not more than twenty or twenty-one years, but there would be some who were over that age at the time and many of these will probably now have reached the age of sixty years.

It is to be noted that they have no pensions or allowances of any kind. It is true that in a certain way they were treated as of the Imperial Army and paid by Great Britain. Still they are our fellow Canadians, very few were born elsewhere and the technical difference caused by the above arrangement between themselves and the Canadians who fought in the Great War and now get pensions and veterans' allowances, does not appeal to them and in fact does not appear to justify the existing discrimination. It does not then, seem too much to ask the Department of Militia and Defence to institute an inquiry to ascertain how many of these are in needy circumstances, at all events as a preliminary step which would cost little. Such a step would tend to allay the feeling of being passed over and forgotten because their services are not recent or no doubt wrongly because their number is too few to be a factor in the ballot box. Certainly the country cannot undertake to satisfy every one who considers himself wronged or neglected. On the other hand if some reasonable inquiry brought to light old soldiers likely to die in penury and want—well, the department could exercise its judgment. The writer who served in Africa has no personal interest at all as he was also in the Canadian army in France.

That is a very reasonably put presentation.

Sir EUGÈNE Fiset: The only way we can deal with this is by an amendment to the War Veterans' Allowance Act, and through departmental regulations.

The CHAIRMAN: Canada gave them script for land out west, did it not?

Mr. CAMERON: Most of it was not worth anything.

The CHAIRMAN: \$400 or \$500 apiece?

Sir EUGÈNE FISET: We got script, there is no doubt about that, but \$25 was the average.

The CHAIRMAN: It was all bought up by speculators right away?

Sir EUGÈNE FISET: Nobody knew where it was. It was land out in Metusala or somewhere, and the majority of them got \$25 except those in western Canada who knew the situation of the land and could pick out their own piece of land.

The CHAIRMAN: It was only the right to choose a homestead?

Sir EUGÈNE FISET: That is all. There is no doubt that there are two ways you can deal with this, one through the War Veterans' Allowance Act, if you want to amend the Act, and the other through departmental regulations. I think you will find there are only about fifty people who would be affected, and then hospitalization for the serious cases. The latter can be done through departmental regulation, I think.

Mr. THORSON: Then we have a brief representation from a member of a former committee on pensions and returned soldiers' problems, General A. E. Ross of Kingston. His representation is as follows:—

The CHAIRMAN,  
Special Committee on Pensions,  
House of Commons, Ottawa.

DEAR SIR,—I would ask your consideration of two or three suggestions.

1. The present system of hearing before a quorum of commissioners without lawyers conducting a court case is most satisfactory as I have attended several. This is the procedure I pleaded for in 1929.

2. I think it would be fair to ask the precis of a case submitted to a specialist to be also submitted in all cases to the petitioner, or a copy of it submitted. It may be necessary to explain—The board often finds it necessary to submit a case or some questions regarding the case to some specialist submitting to him a precis of the case.

It is of great importance in the petitioner's or ex-service man's case to know that all information is noted on the precis.

We are repeatedly blocked in this district by the fact that fire destroyed Sydenham hospital and the records therein at the time. I have had two important cases recently in which I was interested and on the file, and precis there was much valuable records not contained on the file. The case had been through the board, the tribunal and appeal, and it appears to me some evidence and record were wanting.

In a word the district file did not contain all the evidence contained in headquarters file.

3. The specialist should be available at quorum meetings to give his decision and so permit the petitioner to meet it.

4. I have always been opposed to limitation of cases. One might as well limit the time to possible complication in Dr. Robertson and Scadding experience.

Then there is also a recommendation from Colonel J. L. Ralston whose interest in returned soldiers' problems is well known. He suggests an amendment to the section of the bill relating to retroactivation. Section 37 C of the bill would seem to restrict pensioners to the awarding of six months' arrears. Colonel Ralston suggests that a subsection to be called subsection D be added, reading somewhat as follows:—

This subsection shall not apply to the widows or children of members of the force who have served during the great war and whose pension will in every case run from the date of the death of such members of the force.

The CHAIRMAN: I do not think we can extend it all. He says that he received from the Hon. Mr. Justice Surveyer of the Superior Court of Quebec, who by the way, is very much interested in one of the retroactivation cases, the following, and he passes it on. I do not think we need to put the whole letter in the record; it is a personal record.

Mr. THORSON: It is passed along from Mr. Justice Surveyer. There is one other representation from an unemployed ex-service men's association in Calgary, dated April 6, 1936. This letter may be put in as appendix "B". Then there is a communication from Mr. C. J. Broderick, West Vancouver, which might also be described as an unemployment association.

The CHAIRMAN: It is headed "speaking for a silent group."

Mr. MUTCH: I do not see any reason why he should destroy the record.

Mr. THORSON: Mr. Chairman and gentlemen, these are all the communications I have. Mr. Green has a communication, I think, to present to the committee.

The CHAIRMAN: Some time ago I received a representation from an association known as The Veterans of the Inland Water Transport of the Royal Engineers. Their case has been before the department for a number of years. They have made representations and apparently have not been very successful with any of the officers of the department and the ministers. They desire their case brought to the attention of this committee, and in view of the fact that most of these men reside in and around Vancouver, I asked Mr. Green to make a precis of their representations and to put them on the record for the consideration of the committee when we come to discuss the recommendations to be made to parliament.

H. C. GREEN, M.P., called.

Mr. GREEN: As the chairman has said, this is submitted on behalf of the veterans of the Inland Water Transport of the Royal Engineers. Briefly, their request is for pensions and for medical treatment on the same basis as the Canadian troops. These men were all Canadians; they were all men in responsible positions in Canada working on the different rivers and lakes, and practically all of them, or, perhaps, all of them left good jobs. They enlisted for special work on inland waters—I think a good many of them served in Mesopotamia—and they were men whose training had taken quite a long period. As you know, a steamboat captain, or an engineer, and men doing that type of work require long training; and these men were largely of that type. It is interesting to see how their enlistment came about. First I am going to read a letter from the War Office to the Colonial Office.

Mr. REID: You had better make it clear where they enlisted.

Mr. GREEN: I will explain that as I go along. This letter is dated June 15, 1916, and reads as follows:—

I am commanded by the Army Council to inform you, for the consideration of Mr. Secretary Bonar Law, that in view of the increasing difficulty experienced in getting sufficient numbers of seamen and watermen to man the craft belonging to the Inland Water Transport, Royal Engineers, it is proposed to secure men for this purpose from the lakes and rivers in Canada where it is thought that a good field presents itself for the enlistment of suitable men.

Provided that the men are medically fit to carry out these duties, it is not essential that they should be up to the usual army standards of fitness and they can also be accepted above military age up to the age of 56, so that this proposal would not compete with the arrangements of the Dominion government for recruiting for the Canadian contingents, whilst

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it would afford an opportunity of serving with the colours to a number of men who are no doubt anxious to enlist but who at present cannot be accepted on account of age or fitness.

The men would be enlisted for service in the Royal Engineers (Inland Water Transport Section) for the period of the war at British rates of pay (Royal Engineers) and separation allowance; and in the event of the proposal being approved, an officer of the Royal Engineers will be sent to Canada to select men with suitable qualifications. He will also, in consultation with the Ministry of Militia, make arrangements for the medical examination and attestation of the men in Canada and for their passage to England, the cost of which will be borne by the Imperial government. Free return passages to Canada, together with railway fare to the place of enlistment, will be given to these men after the war.

2. It is also proposed to offer to suitable candidates a limited number of temporary commissions in the Royal Engineers—at approximately the rate of two to every 100 men enlisted.

3. I am therefore to request, if the council's proposal meets with the concurrence of Mr. Secretary Bonar Law, that the urgent need for these men to be represented to the Dominion government and their acquiescence obtained, if possible by cablegram, as it is desirable to take immediate steps to meet the requirements of the army in this direction.

Now, that is what started the trouble, and you will notice there is no mention in that letter of pensions. There is mention of suitable qualifications. The idea was, of course, that these men should be particularly adaptable for inland water work. There is some mention here to the effect that they did not have to be up to the medical fitness of the men in the Canadian forces. Actually this letter shows that these men were examined thoroughly when they got to Great Britain; there was a very careful medical examination made there and also, I think before they left Canada.

Mr. MACNEIL: Did they take the oath of attestation?

Mr. GREEN: I think so. I tried to get them but the British representative in Ottawa has not got them here. I believe the department has written England for them.

Mr. THORSON: Where did their enlistment actually take place?

Mr. GREEN: I am coming to that in a moment. The next thing of interest in the files is this cablegram which is referred to in the letter. About a week later, on the 26th of June, 1916, the Secretary of State for the colonies, Dr. Bonar Law, cabled the Governor General, stating in part:—

In view of the increasing difficulty of obtaining seamen and watermen for the Inland Water Transport section of the Royal Engineers, Army Council anxious to recruit men from lakes and rivers in Canada and propose to send out officer Royal Engineers to select men for that purpose.

Then a copy of a letter from the Army Council to the Secretary of State for the Colonies was sent out to Canada, and it is interesting to see the notation thereon. Here is the actual letter from Mr. Bonar Law to the Governor General.

With reference to my telegram of the 22nd of June I have the honour to transmit to your Royal Highness, to be laid before your ministers, a copy of a letter from the War Office on which my telegram was based, on the subject of the desired recruitment of Canadian Watermen for the Inland Water Transport Section, Royal Engineers.

At the foot there is a notation:—

See Prime Minister—I see no objections provided men clearly understand conditions, etc.

S.H.

Sir EUGÈNE Fiset: Is that signed "Fiset"?

Mr. GREEN: The initials are "S.H." I presume that is Sam Hughes.

Sir EUGÈNE Fiset: General Hughes referred that matter to me. What is the name of the recruiting officer?

Mr. GREEN: Colonel Owen was the man in charge for the Imperials. That is the start, and throughout the whole story the Canadian authorities are shown as mixed up with the British. It was all done in co-operation with the Canadian government. There is also on the file a brief résumé of what was done. I quote again from a document on the file. There is no date to it; it is just a memorandum:—

Canada agreed to co-operate, pointing out, however, that until the close of inland navigation, it would be unlikely that enlistment of men for the purpose stated, would be attended with conspicuous success.

An officer of the R.E's, accompanied by a small staff, arrived in Canada in July, 1916, for the purpose of purchasing certain suitable craft for inland waterways, and to commence a recruiting campaign.

Recruiting offices were opened in the following provinces:—British

Columbia, Alberta, Manitoba, Ontario and Quebec....

I understand that most of the recruiting was done in British Columbia and Montreal.

A depot was established at Montreal, to which all recruits were despatched and where preliminary training was carried out.

A large number were, later, recruited in the U.S.A. for which purpose a staff of 17 officers and N.C.O's was attached to the British Canadian Recruiting Mission, recruits thus obtained were sent to the depot in Montreal.

In all, 3,971 were enlisted, of whom 3,445 proceeded overseas, in 75 drafts. The remainder included—discharges in Canada, personnel employed on craft in Canada and those at the depot at the cessation of hostilities.

There is also an interesting document which is dated March 30, 1918. I read this simply to show the extent to which Canada was involved in the recruiting of these men.

#### INLAND WATER TRANSPORT SECTION, ROYAL ENGINEERS, ENLISTMENT IN

1. The Department of Inland Waterways and Docks (Imperial Services) has requested the co-operation of this Department in the obtaining of recruits for the Inland Water Transport Section of the Royal Engineers.
2. Permission has been granted to this Branch of the Imperial Services to enlist direct any man not coming within Class (1) under the Military Service Act.
3. No man coming within Class (1) under the Military Service Act may be enlisted direct, but permission has been granted to this branch to apply for the discharge from the Depot Battalions of men in Class (1) in categories other than "A" who have the qualifications necessary for the Inland Water Transport Section.

I read that to show that the Canadian Government deliberately provided for men being taken out of the Canadian forces and put into this Inland Water Transport section. Continuing:

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4. Officers Commanding Districts are authorized to discharge any Class (1) man in a category lower than "A" who can be spared, on official notification from one of the following representatives of the above-mentioned branch of the Imperial services that he has been accepted for enlistment in, and will immediately be taken on the strength of the Inland Water Transportation Section.

In other words, the Canadian District Officers Commanding across Canada were directed to have these men discharged from the Canadian forces and put into this Imperial Section. These are the officers mentioned:—

Major G. H. Cooper, R.E., 606 Frummond Bldg., Montreal, P.Q.

Capt. J. F. Pratt, R.E., 67 Victoria Street, Toronto, Ont.

Major D. H. Oliver, R.E., Chateau Frontenac, Quebec, P.Q.

Capt. P. F. Scharschmidt, 432 Homer Street, Vancouver, B.C.

Capt. Scharschmidt was not an R.E., apparently. He comes into the picture because he is the man to whom all of these applicants refer. Scharschmidt was a Canadian enlisted in the C.E.F. with the 3rd Pioneers. He was seconded in 1916 in England to the Imperial Army, R.E., sent back by the Imperial Government to Canada for recruiting work with the Inland Transport Section of the Royal Engineers. In other words, he was back in Canada on behalf of the Imperial Government, but yet was actually a Canadian officer.

Sir EUGÈNE Fiset: I know, but you must remember—and I think that is one of the main points of your submission—that these men who were recruited here in Canada belonged to the Canadian Expeditionary Force and were discharged from the Expeditionary Force to undertake enlistment in the Imperial Army. Therefore they were in no way whatever connected with the Canadian Expeditionary Force once they enlisted. I think that should be borne in mind when we are dealing with the matter.

Mr. GREEN: Of course, the point is that these men claim they did not know the difference when they were enlisted, and did not realize what it meant to them to be transferred from the Canadians to the Imperials; and they claim that now they should not be prejudiced by reason of that transfer. That is the essence of the case.

Mr. GREEN: I want to read several statutory declarations that have been filed in this connection. The men making them are all responsible men in employment at the present time. These are not men who are asking for help for themselves.

Mr. MACNEIL: Was their discharge more or less compulsory, or was it of their own volition that they elected to serve?

Mr. GREEN: I have read you the order.

Sir EUGÈNE Fiset: The militia order states that explicitly.

Mr. GREEN: I have read you the order. That order to District Officers Commanding was made in 1918, and applied, I presume, only to the men who were then or thereafter in the depots. But they were presumably encouraged to go into the Inland Water Transport—

Mr. GREEN: From my reading of the correspondence, I do not think there is any doubt that the men did not realize that they were changing their status at all by going from the Canadians to the Imperials. If you let me read these declarations, you will get their story. It is all set out there in the declarations.

Sir EUGÈNE Fiset: There is a certain record that exists in the Militia Department; and the number of applications that were received for enlistment in the Inland Transport were so numerous that we had to close the thing. The militia order was posted not only in the military districts but practically in every post office, and the men were given the chance to go there instead of being chosen to go in the C.E.F. That is what happened.



Mr. GREEN: This is a declaration by Clifford Smith of Vancouver. It states:—

That in 1916 I was a shipmaster operating my own ships out of Peace River Crossing, Alberta, and was requested by Major P. F. Scharschmidt, to recruit men for the Inland Water Transport, Royal Engineers, for service in Messopotamia, and in his personal instructions to me he quoted the scale of pay from Sappers to First Class Warrant Officers with the assurance from the Canadian Government of the same considerations on return to Canada for themselves and dependents as given those enlisting in the Canadian Forces.

Then there is a declaration by John M. MacLeod; also a shipmaster:—

That I was recruiting men for the Inland Water Transport, Royal Engineers in 1916 under Major P. F. Scharschmidt, . . .

This is actually one of the men who was recruiting under the Imperials.

. . . and acting on instructions from him informed men enlisting that on returning to Canada they would receive the same consideration for themselves and their dependents as given those enlisting in the Canadian Forces. I was recruiting at Fort William, Port Arthur and in the Province of Saskatchewan.

Next is an affidavit from F. J. Pearson:—

I enlisted for service with the Inland Water Transport, Royal Engineers, under the late Captain Ralph Forrest, at Selkirk, Manitoba, on January 17, 1917, and on such occasion was given distinctly to understand that on return to Canada I should be given the same consideration as those enlisting in the Canadian Forces, and it was on such terms and understanding that I did so enlist.

Mr. MUTCH: What is the signature on that?

Mr. GREEN: F. J. Pearson. He now lives in Vancouver.

Mr. BROOKS: Have they any correspondence to that effect, or is this all verbal?

Mr. GREEN: There are no letters on the file. The next affidavit is by John Ferris:—

That in May, 1917, I reported to the Depot of the 72nd Battalion to enlist in that regiment. On the Officer in charge learning that I was a seaman by trade he sent me with an escort to the Depot of the I. W. T. R. E., where I enlisted. At that time no explanation was made to me that I was enlisting in other than a Canadian Unit. I wore a Canadian Uniform and was distinctly under the impression that although I was attached to an Imperial Unit that on return to Canada I should be given all the benefits granted to Canadian Ex-service men.

Mr. CAMERON: He understood that, but he was not told it.

The CHAIRMAN: If it is true that he was sent under escort, he certainly was told.

Mr. GREEN: Next is an affidavit by Claude C. Handcock:—

That I enlisted for service with the I. W. T. R. E. on January 3rd, 1917, in Vancouver.

That when I enlisted I was under the impression that on returning to Canada I would receive the same treatment and considerations as those enlisting in Canadian Forces.

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I was 47 years of age at the time of my enlistment as M.B.—presumably motor boat driver—Driver for service in Messopotamia; always wore Canadian Uniform and understood in England that I was a Canadian attached to the Imperial Forces.

Then there is an affidavit by Reginald Marshall:—

That I enlisted for service with the Royal Engineers, Inland Water Transport at Vancouver, B.C., In January, 1917, under Major P. F. Scharschmidt, and on such occasion was given to understand distinctly that on returning to Canada I should be given the same considerations as those enlisting in the Canadian Forces, and it was on such terms and understanding that I did so enlist.

Mr. GREEN: There are three other affidavits which are in practically the same language. They say:—

I enlisted for service with the Inland Water Transport, Royal Engineers, at Vancouver, B.C., in November, 1916, and on such occasion was given distinctly to understand that on return to Canada I should be given the same consideration as those enlisting in the Canadian Forces, and it was on such terms and understanding that I did so enlist.

These are affidavits by Malcolm Campbell, John Scotland, and W. Y. Highet. Two of these men were subsequently promoted to the rank of Lieutenant in these forces and apparently held responsible positions.

Mr. GREEN: To sum up, these men claim that while they were serving under the British Government they were told that they would be given the same considerations as those enlisting in the C. E. F., and they say they did not understand that there was any difference at all. As you know, when we all enlisted, we were not very fussy who we came under or what work we were going to do. They claim that this was their case. Canada certainly seems to have become to an extent morally responsible to these men. Canada certainly allowed, encouraged and assisted recruiting.

It must be said on the other side, that is, against their applications, that there is on file here a copy of certain notices which it is claimed were posted about the country. This notice is dated in 1918, which was I believe after the bulk of the men had gone overseas.

The paragraph at the bottom of this form, which presumably was posted in certain parts of Canada, says:—

Pensions for Widows and Orphans.—Widows and children of men who died in consequence of disease contracted on active service, or of wounds or injuries received in the performance of military duty, will be eligible for pensions at Imperial rates.

The documents show that this matter was taken up with the British authorities shortly after the war, and it was claimed by them that the men were taken to Montreal and were warned there that they were serving under the Imperial army and would only get Imperial rates of pension, and so on. Now, the men deny that; they claim they were not warned at all in Montreal; they claim they never saw these posters, and it must be said that this poster is dated in 1918.

Mr. MUTCH: Under whose hand was the poster issued?

Mr. GREEN: It is an Imperial poster.

Mr. THORSON: It is an Imperial poster?

Mr. GREEN: Yes.

Mr. THORSON: Dated in 1918, though?

Mr. GREEN: In 1918.

Mr. THORSON: And most of these enlistments were prior to that, were they?

Mr. GREEN: Oh, yes, in 1916 and 1917. The men who have sworn to these affidavits enlisted in 1916 and 1917, and they claim they were in Mesopotamia at the time these posters came out.

Sir EUGÈNE Fiset: You have stated that the militia order that was issued on the subject was in 1918?

Mr. GREEN: That was in 1918, too.

Mr. THORSON: The militia order was in 1918 and the Imperial poster was in 1918.

Mr. GREEN: In 1918, yes.

Mr. THORSON: And most of the enlistments were in 1916 and 1917?

Mr. GREEN: Most of the enlistments were in 1916 and 1917. Frankly, I think a great deal of harm has been done by this man Scharschmidt. He is now dead, unfortunately. But I do not question for a minute that Scharschmidt went across Western Canada telling these men what they say he told them. It was more or less informally done, but he was assisted by the Canadian authorities. The Canadians helped their men to get transferred to the Inland Water Transport section, and that is where the trouble has come in.

Mr. THORSON: In cases where these men have been pensioned, have we supplemented their pensions up to Canadian rates?

Mr. GREEN: I think so.

Mr. MACNEIL: May I ask the exact status? Have they supplemented the pensions for any of these men as yet, or recognized their pension rights at all?

Mr. GREEN: I am coming to the question of pensions in just a moment. Then the Imperial authorities also contend that these men had the right to go home if they did not like the terms of service. On that point I would like to quote from a letter dated February 5, 1936, written by the secretary of the Veterans of the Inland Water Transport to the Honourable the Minister of Pensions and National Health:—

Some of us who were holding executive positions on northern rivers and lakes—captains, deck officers, engineers, shipwrights and mechanics and were supposedly skilled in our line of work—were sought for the purpose of handling boats on eastern rivers, and we were guaranteed the same considerations for ourselves and our families on our return to Canada as were to be extended to regular members of the Canadian Expeditionary Forces. It was distinctly understood—the point being stressed by us at the time—that whilst we were being recruited for service with the Imperials, we were not in any way giving up our rights as Canadian volunteers. With this clearly understood by us, we were naturally prepared to serve wherever required, and naturally we, believing in the veracity of our superiors, took it for granted that the governments concerned would take care of our interests and therefore took no further action in the matter.

Then on their return from overseas these men received the Canadian war button or badge. They were given Canadian war service gratuities, or their English gratuity was increased to Canadian rates. I do not know how that was arranged. They were given soldier settlement privileges, but as to pensions they came strictly under the Imperial army regulations. They are Imperial soldiers so far as pensions are concerned, and great difficulty has arisen because many who served in Mesopotamia have been breaking down during the last few years, and it is practically impossible for them to get an Imperial pension. They require medical treatment, and unless a man is an Imperial pensioner with his

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records in Canada, it is necessary to refer to England before he can get into the hospital, and by the time a reply is received he may be dead. They want to be treated in the same way as the Canadians in Canadian units and to have their claims administered by the Canadian authorities.

Mr. CAMERON: Their pension was not supplemented by the Imperial authorities to bring it up to the Canadian rate? I understand that is the case with regard to the Royal Air Force.

The CHAIRMAN: My impression is that the Royal Air Force have better pensions than we have. Major Bowler would be able to tell us about that.

Major BOWLER: They have the same rights as any other Imperials who were resident in Canada at the outbreak of the war. Their pensions are supplemented up to Canadian rates. The question of who pays for it depends on the rank. In the case of commissioned officers the additional amount is paid by the Canadian government, whilst in the case of non-commissioned officers and the rank and file the additional amount is found by the Imperial government.

Mr. GREEN: They cannot get Class Two treatment in Canada at all, as I understand it.

Mr. THORSON: In that respect they are in the same position as other Imperials. The whole difficulty is that all their cases must be referred to a government situate thousands of miles away.

The CHAIRMAN: I think that is handled pretty well through the British Ministry of Pensions here. It is not necessary to correspond with London.

Mr. DIXON: If pensioned, they can get treatment through the Canadian office.

Mr. THORSON: Through the Canadian branch.

Sir EUGÈNE Fiset: Is it not a fact that the Imperial pensions at the present time are paid through the Board of Pension Commissioners?

The CHAIRMAN: No.

Sir EUGÈNE Fiset: The administration of the Imperial pensions was transmitted to the Board of Pension Commissioners by order-in-council.

Mr. DICKSON: The British government took back that responsibility nine years ago.

Sir EUGÈNE Fiset: Oh, I beg your pardon.

Mr. MACNEIL: Is it clear that all these men were recognized as regularly enlisted men in the Imperial forces?

Mr. GREEN: I think they are recognized by the Imperial government as Imperials, but that does not mean a great deal in the way of getting help now.

Mr. MACNEIL: Are they discriminated against?

Mr. GREEN: By the Imperials?

Mr. MACNEIL: Yes, as compared with the Royal Air Force.

Mr. GREEN: They are classed as Imperials with all the rights and also the handicaps arising therefrom.

The CHAIRMAN: I see on the file a memorandum dated March 1, 1935, from Mr. E. H. Scammell, Secretary of the Department of Pensions, to the Minister which seems to tell the whole story. We can put that in the record as an appendix.

Mr. GREEN: I think it is worth while for the committee to compare the cases of these men with the cases of the Americans who came to Canada and enlisted in Canadian battalions. They are treated as full-fledged Canadian citizens and receive the same rights as those who enlisted in the Canadian Expeditionary Forces receive. On the other hand, the Canadians who served in the Inland Water Transport are severely handicapped.

Mr. Mutch: Are they in a worse position than other Canadians who enlisted in the Imperial forces?

Mr. Green: In their favour it can be said that the Inland Water Transport men were enlisted under special conditions which I do not think applied to others serving with the Imperials.

Mr. Thorson: A great many who were domiciled in Canada returned to the Imperial colours.

The Chairman: Here is a list:—

The following figures respecting enlistments in the Imperial Forces are taken from records furnished by the Department of National Defence:—

Enlisted in or transferred to R.A.F.....	34,071
Imperial Motor Transport.....	710
Inland Water Transport.....	3,971
Naval Service.....	2,814
Jewish Palestine Draft.....	42
	<hr/>
	41,608
Reservists, say.....	14,590
	<hr/>
Total .....	56,198

A total of 56,198 of all kinds and classes who served in the Imperial forces.

Mr. Mutch: That does not include Canadians who enlisted in the first instance in the Imperial infantry.

The Chairman: That is a guess.

Mr. Thorson: There were a number of Canadians who went over to the Old Country and enlisted in units in the Old Country.

Mr. Green: Yes. They went over there with their eyes open, and cannot claim they were in the Canadian Expeditionary Forces. The men to whom I have referred are asking that they be treated the same as other Canadians, particularly with respect to pensions and medical treatment.

The Chairman: Is it the wish of the committee that I file this memorandum dated March 1, 1935, from Mr. Scammell to the Minister? I do not know whether or not the Militia Department have been dealing with it. Probably the Judge Advocate General, Colonel Orde, has dealt with it.

Mr. Thorson: I think it would be desirable to have that memorandum on the record.

The Chairman: It will be filed as appendix "C".

Mr. Green: In connection with this memorandum, the department has taken the stand from the start that these men have no claim at all. This memorandum is rather drastic along that line, I think. The committee should check very carefully the facts set out in the memorandum.

Mr. Thorson: You say that is the departmental view?

The Chairman: Have you anything else?

Mr. Green: No.

Mr. Thorson: Mr. Green, before you leave, my recollection is that the sub-committee had representations from the Imperial War Veterans.

Mr. Green: I haven't got that quite ready yet.

The Chairman: He can file that in the record as part of today's proceedings.

Mr. Green: I will have that this afternoon.

[Mr. H. C. Green.]

Mr. CAMERON: Can Mr. Green tell us what rate of pay these men received, was it a special working pay or was it the rate ordinarily received by men enlisted in the R. E.?

SIR EUGENE Fiset: They were receiving a generous rate of pay.

Mr. GREEN: I think they got lower pay than they would have got in the Canadian forces, as I understand it.

The CHAIRMAN: We can get that, Sir Eugene, can we not?

SIR EUGENE Fiset: Certainly, from the Militia department.

The CHAIRMAN: If the committee thinks it is necessary we can get that and have it filed in the record.

Mr. GREEN: They claim that their rates of pay were low, but that they were satisfied with that believing that they and their dependents would be looked after when they came back.

SIR EUGENE Fiset: The extra rate of pay was less than the rate of pay which they were receiving in civil life, but R. E. pay is always over army pay.

Mr. GREEN: Is it over the R. E. rate of pay in Canada?

The CHAIRMAN: I think so.

SIR EUGENE Fiset: I think it is.

The CHAIRMAN: They have all kinds of special allowances, and then they have a special allowance for service in the tropics.

SIR EUGENE Fiset: I think so. I would suggest that the best way to deal with that would be to ask for a report from the Department of National Defence.

Mr. GREEN: I do not think there should be any question as to the service these men rendered. They gave splendid service, as I know from some men whom I know personally.

The CHAIRMAN: Oh, yes.

Mr. GREEN: Many of them served in Mesopotamia, and I do not think there should be any question about their service.

SIR EUGENE Fiset: It seems to me the only thing we have to decide in this committee is whether these people are Imperials, whether they enlisted in the Imperial army, whether they received the same rate of pay as ordinary Imperial soldiers who came back here to Canada, and whether they received the same treatment. That is the whole thing.

Mr. THORSON: Except this, that the ordinary Imperial knew definitely that he was serving with an Imperial unit, and there is some question with respect to these men.

Mr. MULOCK: Mr. Chairman, could I file with the committee this list of correspondence received by the sub-committee. I do not want to take more than five minutes at the outside. In addition to this list there are just four letters which perhaps ought to be filed.

The CHAIRMAN: All right.

Mr. MULOCK: This list is as follows:—

Individual Cases Acknowledged by the Sub-committee on Correspondence:—  
Mr. J. H. Woodside, Orangeville, Ont.; Mr. W. B. McLeod, Worcester, Sask.; Mr. Howard E. Campbell, Glace Bay, N.S.; Mr. Ira Wood Hatfield, Athol, N.S.; Mr. G. Henderson, Calgary, Alta.; Mrs. G. Keech, Victoria, B.C.; Mrs. Edna M. McHugh, Christopher Lake, Sask.; Mr. J. Pearson, Transcona, Man.; Mr. D. Plunkett, M.P. (Re Byatt) Victoria, B.C.; Mr. D. Plunkett, M.P. (Re Dawson) Victoria, B.C.; Miss Rose Quinn, Winnipeg, Man.; Mr. R. E. Venne, Montreal, P.Q.; Mr. Leslie Wallace, Manola, Alta.; Mr. W. C. Wade, Fredericton, N.B.; Mr. Herbert Wormell, Brombury, Sask.; Mr. Laverne Wright, Toronto, Ont.; Mr. William Bethell, Windsor, Ont.; Mr. W. W. Molthrop, Ottawa,



Ont.; Mr. William Guy, Ottawa, Ont.; Mr. George Brayman, Toronto, Ont.; Mr. Cecil M. Morgan, Christopher Lake, Sask.; Mr. G. E. Morlidge, Lloydminster, B.C.; Mr. W. Binkley, Vancouver, B.C.; Mr. T. L. Church, M.P. (Re J. A. MacDonald) Toronto, Ont. (Veterans of N.W. Rebellion—1885); Mr. Fred R. Adam, Maple, Ont.; Mr. J. Whitworth, Manager Art Monument Co., 602 Kingsway, Vancouver, B.C.; Mr. J. F. Thomson, London, Ont.; Madame Osias Dupuis, Coaticook, Que.; Mr. W. C. Duncalfe, Campbellford, Ont.; Dr. A. E. Ross, Kingston, Ont.

The CHAIRMAN: Have you anything, Mr. MacNeil?

Mr. MACNEIL: Yes, I have sessional paper No. 53, relating to returned soldier insurance. In view of the evidence submitted by Mr. Hale I thought the statistics included in this statement would be of value to the committee. I was going to suggest that we should have a similar statement from Mr. White.

The CHAIRMAN: Do you want Mr. White? We can get him. This is really in the Finance department.

Mr. MACNEIL: This is a statement filed this session.

The CHAIRMAN: What do you want further from Mr. White?

Mr. MACNEIL: I would like to have an explanation of the position, and certain statistics particularly with regard to the large number of men who have been unable to pay their insurance premiums.

The CHAIRMAN: And you would like to have Mr. White called here?

Mr. MACNEIL: He could give us the exact position of these men.

The CHAIRMAN: Mr. Dickson, would you get in touch with Mr. White and ask him if he could come and give us a few words of explanation on this returned soldiers insurance and the number of men who have had to surrender their policies. That is what you wanted, isn't it?

Mr. MACNEIL: Yes.

The CHAIRMAN: We could ask him to come this afternoon, if we sit this afternoon. It would not take more than ten or fifteen minutes.

Mr. MACNEIL: Would that sessional paper be placed in the record?

The CHAIRMAN: Yes. It will be filed as Appendix "D."

Mr. MULOCK: The four letters which I would like to file with the committee are from:—Mr. J. H. Woodside of Orangeville, Ontario; Mr. T. L. Church, M.P.; Mr. Fred R. Adam, Braehead Cottage, Maple, Ontario; and, General A. E. Ross, M.D., of Kingston.

The letter from Mr. T. L. Church, M.P., is in regard to veterans of the North West Rebellion in 1885.

The CHAIRMAN: What about the veterans of the War of 1812, have we any?

Mr. MULOCK: Not so far.

Then there is this letter from General A. E. Ross, of Kingston, which we might refer to Mr. Thorson's sub-committee on agenda.

Mr. THORSON: I wonder if it is the same as the letter I received from General Ross.

The CHAIRMAN: No, this is a special case.

Mr. MULOCK: Then there is one brief one here containing a question which they asked be brought up before the committee. The man claims that he has an only child, born on the 26th of May, 1934; that now he receives no pension at all, that he had two children who died very young; the man is now 49 years old and his wife is 45; they were married on September 11, 1920; he served five and a half years in France, attached to the 13th Battery, Toronto, etc. He says, is there no exception in this new law which penalizes all cases of my kind. He asks that the matter be drawn to the attention of the committee.

[Mr. H. C. Green.]

The CHAIRMAN: Is that all?

These are the only ones. The others are all individual cases and I understood you decided to file names and addresses.

The CHAIRMAN: I think we had better file these the same way.

Mr. MUTCH: These touch on the establishment of the principle rather than the individual.

Mr. MACNEIL: In that connection I have received quite a number of communications, that are possibly duplicates of those received by the chairman of the sub-committee. May I add these to the list that has been received?

The CHAIRMAN: Yes. I get only 200 a day. Gentlemen, do you think it will take very long to hear Dr. Cathcart? Do you think we should put him on for 15 minutes.

Mr. MUTCH: Let us start, anyway.

Dr. J. P. S. CATHCART called.

*By the Chairman:*

Q. What is your position in the department?—A. Chief Neuro Psychiatrist.

Q. Will you tell us something about your work?—A. My position in the department is chiefly that of a consultative and supervising capacity, in the latter directly under the Director of Medical Services, except that when I am visiting districts, my work is practically entirely in connection with the neuro psychiatric service, except sometimes representations regarding general policy of the department which are passed on to the D.M.S.

Q. You visit the various hospitals in Canada once or twice a year, do you not?—A. I have been visiting all the hospitals in Canada in which we have neuro psychiatric patients, which includes both mental and nervous cases, some of them once a year, at least once a year, others it may amount to ten times a year; for instance, Westminster and Ste. Anne's hospital, where the majority of our patients are in this class, neuro psychiatric.

Q. For what purpose do you visit them?—A. For the purpose of supervising particularly the care of those soldiers both in our own hospitals and in hospitals under the control of the province, not only supervision of the care, but also of diagnoses and treatment.

*By Mr. MacNeil:*

Q. In what respect is your work concerned with the basis of entitlement for hospitalization or pension?—A. Only indirectly; in this way that in my capacity as consultant, certain cases are referred to me, not all cases; although I see all cases on my visits, I naturally do not examine them except certain ones that for one reason or another are drawn to my attention. Sometimes it is a direct request from the Canadian Pension Commission; sometimes it is a request from the War Veterans' Allowance committee; sometimes a request from the Imperial body; but usually these cases are cases that are presenting some particular problem either of diagnosis or in our method of handling them, or treating them. So that often the question of pension entitlement comes directly under my wing, as it were, in that quite frequently on the matter of diagnosis depends the question of whether a man shall receive pension at the rate that has been given; whether he shall receive pension at all, or whether it shall be increased.

*By Mr. Thorson:*

Q. Would you amplify that a little further?—A. Might I ask Mr. Thorson, if you could suggest more specifically what you want?

Q. You say upon your diagnosis will depend the question of entitlement for the question of amount of entitlement. Now where do you come into that

picture?—A. I think I can answer that. I think I understand your question, Mr. Thorson. Take the question of the amount of pension. After all, pension is paid for the degree of disability.

Q. Quite. —A. I am asked to see a man who is representing that he has such and such a condition, and that disabled him to such and such an extent. I see him; and I may find out that his condition is a little bit different from what he represents it, either a less extent or it may even be to a greater extent as has happened frequently. I do not recommend the degree of pension; I say nothing about that at all. In our department we have been strictly cautioned against that, and made it a very careful practice to observe that we say nothing in our ordinary every-day reports on the degree of disability. I merely give my impression of the case in a medical, or rather I should say in a neuro psychiatric way, and the medical advisers of the Canadian Pension Commission at head office decide on the degree of disability, rating it on the information that I have brought forward in my report. Now, regarding the other half of your question, dealing with the question of the amount of disability—

*By Mr. Brooks:*

Q. You say the man represents he has a certain condition. Do you mean he represents himself personally or is represented by some other psychiatrist who has examined him?—A. Well, both, although I deal mostly with the patient. I prefer to deal with the patient himself. I might add further that my position is rather unique in the department in that I am the only head office official who sees patients personally and examine them myself. That happens to be because I am a specialist in this particular work.

*By Mr. Green:*

Q. With the commission or the treatment branch?—A. I am with the treatment branch. Now Mr. Thorson, with regard to the second aspect of your question.

*By Mr. Thorson:*

Q. The question of entitlement diagnosis with a view to determining entitlement.—A. There are three then, because I was going to give another one on the basis of diagnosis and the difference it might make. As you know, there are different attitudes towards various conditions specified in the pension act. For instance, occasionally—I do not want to give you the impression I see these frequently—but occasionally and often enough to be put on guard I see patients who are represented by physicians and often specialists in this work suffering from neurasthenia or even some form of functional mental disorder. There is something in the report that I receive that just makes me wonder whether all the facts are being presented. That is a specialty in itself for people to discern between the lines. I see that man and I find out in a small proportion of those cases that he has some other condition entirely; not that it has been misrepresented, but that due care has not been taken in sizing it up.

*By Mr. Thorson:*

Q. There is the other question which I asked, Dr. Cathcart. You dealt with new variations in the amount of disability dependent upon the diagnosis, and then, perhaps, a change from a pensionable state to a non-pensionable state because of a corrected diagnosis; but in cases of first entitlement, where do you come into the picture? How do you come originally into the picture?—A. Largely it is a question of diagnosis. I do not think that I come into it at all as a question of entitlement, except that on occasions I have been called before quorums and tribunals as to what my opinion was.

Q. That is the point I want to elaborate. How does that come about, and what is the procedure up to your taking hold of the case for purposes of diagnosis?—A. I fancy the great majority of those cases coming up for new entitlement,

[Dr. J. S. P. Cathcart.]



unless there is some question of diagnosis, are handled entirely independent of me. I never see them. I often see them for the first time after the entitlement is received and a question of assesment—on the question of assessment being made, occasionally a suspicion arises that the diagnosis has not been correct.

Q. Quite. You have dealt already with those cases. But to what extent are you asked for an opinion in cases of persons claiming entitlement?—A. I think that is a very small proportion. It does not strike me as a very outstanding thing. 90 per cent of the preferred cases from the Canadian Pension Commission are a matter of diagnosis and rating on reports that I have given myself or that somebody else has given, on the question of relationship to service—

Q. That is the point?—A. That is a question. I would not say for sure that I have never been asked that outside of quorums or tribunals. I would not like to say that; but it is so small that it does not stick in my memory; but I am asked occasionally on quorum hearings, and I have been asked on tribunal hearings.

The CHAIRMAN: As an expert.

WITNESS: Yes. As an expert.

Mr. THORSON: That is the part I wanted.

*By Mr. MacNeil:*

Q. Do you initiate review treatment of appeals as pertaining to neurological or mental cases?—A. That goes on all the time.

Q. Are you responsible for initiating that review?—A. Of those on active treatment strength?

Q. Yes.—A. That, I take it, is my responsibility.

Q. Who initiates the review of pension appeals?—A. I do not know.

Q. Does your review of the treatment appeal affect the basis of entitlement for pension?—A. It may if there is any matter to be drawn to the attention of the board.

*By Mr. Mutch:*

Q. Is not that the object of it?—A. The object is, primarily, that I know whether my cases are being properly diagnosed and treated. That is my first responsibility.

*By Mr. Green:*

Q. Suppose a man is pensioned for one of these nervous diseases, how could the treatment branch possibly interfere with his pension?—A. They do not.

*By Mr. Thorson:*

Q. Unless you make a new diagnosis?—A. Yes; and, of course, I do not do that. That is a question for the Canadian Pension Commission.

Q. But, in the course of your treatment you may be called upon to make a diagnosis, or review a diagnosis?—A. The same as any other physician. No physician is going to continue treating a case for duodenal ulcer when he knows it is a chronic appendix. The same is true with me. I mean you can call them whatever you like. I have to make a distinction, because in a great many cases our treatment varies. In some it does not make any difference.

Q. So that your review of the diagnosis may have its effect on the question of entitlement, but the Board of Pension Commissioners will rule on that?—A. They rule on that entirely.

*By Mr. Green:*

Q. But are you not their doctor too?—A. I think probably I can explain that. In some circumstances, some districts—take for instance Saskatoon—we have no consulting neuro-psychiatrist. For years I have been doing all that

work on my annual trip. I do not need to do it. I do it so as to make the department run.

Q. That is, you do your treatment work and then you do the Pension Commission work?—A. Yes, combine the two at the same time.

*By Mr. Brooks:*

Q. Do you determine whether it is congenital or attributable to war service?—A. No, I do not. Of course, on the question of congenital, that is a purely medical thing. The Pension Board have to approve of any diagnosis that I or anyone else would make which would indicate that a condition was congenital.

*By Mr. MacNeil:*

Q. Will you explain how far your findings go? You diagnose a case for the purpose of treatment; that is, determine the exact nature of the man's present disability in order to determine the nature of the treatment required?—A. Yes.

Q. Do you go beyond that point to any great extent and determine the origin of the disability; and then place your opinion upon record?—A. Oh well, naturally; in our psychiatric work—of course, excepting organic cases—experience teaches us that it is the life history that counts. It is not a question of two years ago. It is not a question of three years ago. It is not a question of twenty years ago. It is not a question of three years out of a person's life or anything else. It is the whole life history. That is the purpose behind my taking careful histories. I think if you will look into the files in the department where I have examined cases you will find they include, almost invariably, almost the whole life history. That is the purpose behind that.

Q. Invariably your findings determine entitlement?—A. Not invariably at all. You would be surprised. My opinion is questioned probably as often as anybody's.

*By the Chairman:*

Q. That is to say, the Board of Pension Commissioners may take or reject your opinion?—A. Absolutely.

Q. And they do?—A. And they do.

*By Mr. Mutch:*

Q. In reply to that before I go on, are they not inclined to regard, in that particular field, your opinion as the last court? Where do they go from there?—A. Well, I think everybody in the department knows that for years they have been going from there. I hope I am not the last word in this.

Q. Well, I am not asking you to suggest that. But I mean, there have been indications or suggestions that your opinion on these matters, so far as the Pension Commission is concerned, is the last court of appeal; and you are suggesting that they question your opinion on the matter. I am wondering where they are going to go if they do.—A. Well, that, of course, brings into the question my capabilities and training, and all that.

Mr. MUTCH: If they do not accept it, it is a question of a layman deciding as to the abilities of the professional man. There does not seem to be any sense in that.

*By the Chairman:*

Q. They take the opinion of outside consultants against yours?—A. Yes

*By Mr. Mutch:*

Q. They do not decide this one way or another?—A. No, I do not think so. I think you will find that cases are referred outside fairly regularly.

[Dr. J. S. P. Cathcart.]

*By Mr. Thorson:*

Q. To what extent would a reference be made to an outside specialist when you have expressed an opinion?—A. I am afraid I cannot answer that, Mr. Thorson; I will tell you why. At no time—I hope you will believe me—at no time has there been any attitude of this sort in my handling of this work. I have never attempted anything in the way of snooping. I do not bother. That is none of my business. I see these cases as their files come forward, and I do not bother. So that whether these cases are referred after I have seen them comes to light when the man comes in for treatment again or when the case is referred to me again, and then I will look up to see what has happened in the meantime; but otherwise I may not know.

*By Sir Eugène Fiset:*

Q. Is it not a fact that your report or diagnosis goes direct to the director general from the records?—A. No, I make it direct to the branch that has requested it. For instance, on my annual trips out west I may examine 125 people at the direct request of the Pension Commission. I may examine 30 others for the War Veterans' Allowance Committee. My report then goes to the Pension Commission.

*By Mr. Thorson:*

Q. It goes to the authority that refers the matter to you?—A. Yes.

*By Sir Eugène Fiset:*

Q. You have doctors attached to the Board of Pension Commissioners, you have doctors attached to the department, as far as treatment is concerned, and you have other doctors attached to the War Veterans' Allowance; do you report to the medical authorities or direct to the Board?—A. Well, perhaps I can explain that because actually what happens is this: I see a man in Saskatoon, examine him and report. I report right there. I do not report back to Ottawa.

*By Mr. Thorson:*

Q. To whom do you report?—A. To the local pensions medical examiner, and he reports it to the Canadian Pension Commission. Now, that is the usual formula.

*By Sir Eugène Fiset:*

Q. In other cases your report goes to a medical officer?—A. It goes to a medical officer.

MR. THORSON: It always goes to a medical officer.

*By Sir Eugène Fiset:*

Q. And here in Ottawa whenever you do report on a case submitted to you by the Board of Pension Commissioners or by the War Veterans' Allowance, you examine the case, make your diagnosis, report to the medical officer and then you do not know what happens to the case?—A. No, I often do not know what happens to the case afterwards.

THE CHAIRMAN: Gentlemen, do you want to hear Dr. Cathcart this afternoon?

MR. MACNEIL: In view of the trend of Dr. Cathcart's evidence would it not be well to have some representative of the Commission present at 4 o'clock? Dr. Cathcart says he deals with the case and it passes on. Should we not check on the procedure following that?

THE CHAIRMAN: I think we could ask that of General McDonald; I do not think we need Judge Taylor.

(Whereupon the committee adjourned until 4 o'clock this afternoon).



## AFTERNOON SESSION

The committee resumed at 4 o'clock.

The CHAIRMAN: I understand you have another submission to make, Mr. Green; if you would like to do it now, we will call it a quorum for that purpose. Just state the submission you are making.

Mr. GREEN: Mr. Chairman, I have a further submission. This is from the Imperial Veterans Corps in Canada, B.C. Provincial Command. There are several hundred of them in this association in Vancouver. I would like to file their submission and have it appear in the proceedings. Like many other Imperials, they are really in a tragic position. I think hospitalization is one of the things that is worrying them most. I might also suggest that it would be helpful if the minister could take over some of their suggestions with the representative of the British Minister of Pensions. I think perhaps some of the complaints could be adjusted in that way.

See Appendix D.

Mr. MACNEIL: May I ask how far we can go with reference to the Imperials in this committee?

The CHAIRMAN: You mean under our reference?

Mr. MACNEIL: Yes.

The CHAIRMAN: We can go as far as the committee wants to. If there is something we can do, and for which we have not the authority, I suppose if the committee wants to we can go to the House and get authority.

Mr. MACNEIL: By way of an address to the British Minister?

The CHAIRMAN: Now you have got me. Do not ask me about that. I can inquire. I really do not know what the channel of communication is. There is a representative of the British Ministry of Pensions here. I do not know whether he would care to come and give evidence as a witness or not.

Mr. MACNEIL: I think all the members of the committee are getting considerable correspondence.

The CHAIRMAN: Yes, I know.

Mr. GREEN: There are certain things. For instance, this group asked that a representative be appointed in the west, an Imperial advocate and an Imperial doctor. There are different things like that which the British representative in Ottawa might be able to arrange.

Sir EUGÈNE Fiset: The British representative here in Ottawa has nothing whatever to do with policy.

The CHAIRMAN: He takes some decisions, a lot of them. We can take some time off during the course of our discussions and try to find out some way whereby we can bring this to the attention of the Imperial authorities. Then I could write a letter and put it through the Department of External Affairs or the High Commissioner in London or whatever the proper channel is, so that the war office will know, anyway, what their people think through us. I think that is the best we can do.

Mr. GREEN: Would it be in order to ask him to come up and talk it over with us here, or would that be going too far?

The CHAIRMAN: I really could not tell you.

Mr. MACNEIL: The point is that the men feel they are being discriminated against because of their residence in Canada.

The CHAIRMAN: We could take some time off during the course of our discussions to see what recommendations or what action we might take on behalf of the Imperials, and I think we might work out something that will, at any rate, make their representations known to their own government, if nothing else.

[Mr. H. C. Green.]

I have here a communication from A. E. MacLean, M.P., enclosing a resolution from the secretary of the Charlottetown, P.E.I. branch of the Canadian Legion dealing with insurance to returned soldiers, which will be filed as an Appendix.

If Dr. Cathcart will come forward we will continue with his evidence. Just before we adjourned Sir Eugène Fiset enquired of you, Dr. Cathcart, to whom you made a report after you had made an investigation into any particular case, and you told him if it happened to be the War Veterans' Allowance Committee you made it to that committee, and if it happened to be the Pension Board you made your report to the Pension Board. What other questions are there?

*By Mr. Mutch:*

Q. I would like to ask Dr. Cathcart if it is a fact that doctors in the treatment branch refuse to treat pensioners for disabilities which have been set up by the pension branch? It has been represented to us that a man will be given a pension for a certain disability involving treatment and that when he gets to the treatment branch they either say he has not got that disability, or, for some other reason, they refuse treatment on the ground that he has not got that disability, and indeed change the diagnosis.—A. That may happen on occasions. I understand that there has been one case mentioned where that may seem to apply.

Q. I had no reference to a particular case. I understand that that is, indeed, more or less general, if not common practice.—A. It is not common practice by any means.

Q. How could it occur at all?—A. Well, it can occur because, after all, I have authority to treat cases for certain disabilities; those certain disabilities are those which are pensionable, within certain limits under class 2 for any disability; but that "any" disability pretty much rules out neuro-psychiatric cases because they are exceptions.

Q. I did not start to make that a personal question. You said you belonged to the treatment branch?—A. Yes.

Q. Consequently it would apply equally to you or anyone else. I was not suggesting it was a general practice with respect to neuro-psychiatric cases, but I was at a loss to understand how it could happen at all.—A. Well, it can happen through the man actually requiring treatment for some other disability than that for which he is pensioned.

*By Mr. Green:*

Q. Yes, but can you refuse to treat him for his pensionable disability?—A. If we do not think he requires treatment for his pensionable disability, yes.

Q. Supposing there is a conflict between the Commission doctor and the treatment branch doctor?—A. I do not think the Commission people have ever taken any part in treatment matters, just the same as we stay out of pension matters.

Q. What recourse has a man got? If he has a pension for one disease, the treatment branch apparently can refuse to treat him for that disease for which he is pensioned. Now, what recourse has the man got, is he just stuck and has he simply got to take the word of the treatment branch, or can he refer to somebody else?

MR. MUTCH: In those circumstances the treatment branch is set up as a superior court over the doctors who gave him his pension?

WITNESS: I do not think so at all, Mr. Mutch. I am entitled to treatment for my arm, I could go to the treatment branch and say that I wanted treatment for my arm. They would say, "You don't need it," and I don't.

THE CHAIRMAN: You would still get your pension.

WITNESS: I would still get my pension.

*By Mr. Green:*

Q. But what recourse has the man got? No doubt many of these men believe they have got a pensionable disability and that they need treatment for it. Now, what remedy has a man got if he does not agree with your diagnosis?—A. Well, the remedy often is in probably 99 per cent of cases that when I am dealing with a man either by letter or personally I explain to him why, just in all decency.

Q. Has he no appeal to any other person, group or body?

The CHAIRMAN: I guess I am the goat.

WITNESS: I guess he has an appeal to the local district officers or to the minister.

*By Mr. MacNeil:*

Q. When your decision is made and placed on the treatment file, is it not usual for that decision to be followed by the medical authorities within the Pension Commission?—A. As I explained this morning, not necessarily. I fancy that happens a great many times, but not necessarily at all.

The CHAIRMAN: The complaint is that through your diagnosis or the diagnosis of some persons in the treatment branch people are being deprived of a pension which was awarded them by the Pension Commission. Is that right?

Mr. GREEN: Yes.

The CHAIRMAN: What is the answer to that, if any?

WITNESS: Well, the answer is, as I said before, it cannot happen very often. I am quite prepared to deal with any specific cases, because I am sure there cannot be many.

*By Mr. Green:*

Q. Do you think it should be in the power of one man to make such a reversal in a pensioner's position? He thinks he has a pensionable disability, he thinks he is entitled to treatment for that disability, and no doubt when he is sick he thinks it is caused by that disability; yet you or somebody else in the treatment branch can say, "Here, you have not got that, you take treatment for something else."

The CHAIRMAN: But he still goes on getting his pension.

Mr. GREEN: Yes, but it would affect his medical treatment.

WITNESS: That is a matter which comes up every day. After all, a medical man must be in a position to judge those matters, just as I said in regard to my arm. Now, I am a doctor; I am not going to the treatment branch and ask them for treatment for my arm; I know better, but if I was a lay person I might. I would expect, if I went there, that they would explain to me why I did not need treatment.

Mr. GREEN: Should that not be settled by the pension doctors?

The CHAIRMAN: Would you put all the hospitals under the Pension Commission?

Mr. GREEN: No, but whether or not a man has got a different disability than the disability for which he is pensioned. Should that not be settled by the pension doctors and not by the treatment doctors? Would that not get away from the difficulty?

The CHAIRMAN: The treatment branch runs the hospitals, as I understand it. They have certain regulations, and under those regulations people are admitted to treatment on pay and allowances or they are admitted under other circumstances. There are 14 classes.

Mr. MACNEIL: Is it not true that entitlement to hospitalization under P.C. 91 is on the same basis and determined on the same basis as entitlement

[Dr. J. S. P. Cathcart.]



to pension to the extent that the medical authority of the department is closely interlocked with the authority of the commission?

*By the Chairman:*

Q. Is that true?—A. There must be a certain interlocking because we are dealing with the same individuals and the same disabilities.

*By Mr. Green:*

Q. Should not the decision rest with the commission rather than the treatment branch?—A. As to entitlement, yes.

Q. But as to treatment?—A. No, certainly not.

*By Mr. MacNeil:*

Q. Then your diagnosis is a vital factor in determining entitlement for pension? (No response.)

The CHAIRMAN: Entitlement for treatment, yes; but not entitlement for pension. The man has his pension and nobody can take it away from him except the Board of Pension Commissioners; nobody in the treatment branch can take a man's pension away unless the Board of Pension Commissioners say so.

Mr. MACNEIL: I understand that there was some evidence placed before the committee with particular reference to neurological cases, to the effect that Dr. Cathcart would render his decision and that decision was passed on to the pension medical authority and was usually accepted.

The CHAIRMAN: That is up to the pension commission, but they are under no obligation to accept Dr. Cathcart's opinion.

*By Mr. Mutch:*

Q. Do they in practice do so? The suggestion in the evidence is that they do?—A. That is for them to answer. I know of instances where they do not. I do not know how many instances there are, because, as I indicated this morning, I have no scheme of checking on the board, and I do not intend to have one.

*By Mr. Reid:*

Q. If they did not, would it not throw some reflection on your skill?—A. We are all used to reflections.

Mr. GREEN: Here is the invidious position: A man is pensioned for one disease and the treatment branch says he has a second disease, and it is not a far step from that to suggest that his pensionable disability is changed or taken away.

The CHAIRMAN: Nobody but the Board of Pension Commissioners can change it or take it away.

Mr. GREEN: Could not we fix it so that such decision is made by the pension board and the treatment branch together and not only by the treatment branch?

*By the Chairman:*

Q. How many cases like that have you heard of in your experience during the last few years?—A. I am not too sure whether the type of case is clearly defined in my mind. If it is the case I have in mind, there cannot be over half a dozen.

Mr. GREEN: We have had complaint after complaint that the treatment branch are interfering with the pension branch.

The CHAIRMAN: I do not see how they can. There may be one or two cases where a different diagnosis was made by the treatment branch and as the result of that diagnosis treatment was refused, or something of that kind.

*By Mr. Reid:*

Q. Is it not a fact that when you are asked to look over cases and your report is made it goes to the pension commission and they accept your opinion immediately and reduce the man's pension or cut it off altogether?—A. Or raise his pension, Mr. Reid.

The CHAIRMAN: We would not hear anything about that.

Mr. REID: I would like to hear of a case of that kind.

Mr. MACNEIL: In his evidence this morning Dr. Cathcart stated that he himself initiated a review of certain categories of cases under his charge, for example, men in mental institutions.

*By the Chairman:*

Q. At the demand of the Board of Pension Commissioners?—A. I have to keep an eye upon the patients who are on the strength; that is part of my responsibility.

Mr. MACNEIL: I think the evidence discloses that if Dr. Cathcart changes the diagnosis formerly given as the result of his review of the file, that alters the man's standing not only in the treatment branch but also with the pension authorities when determining entitlement for pension.

The CHAIRMAN: The only person who can tell us that is Dr. Kee. I see Dr. Kee here now.

Dr. Kee, are there many cases in which a diagnosis by the treatment branch has had the effect of depriving a man of his pension, or are you obliged to deprive a man of his pension on a diagnosis from the treatment branch?

Dr. KEE: No, not necessarily. We are not bound to take any opinion as to what a man is suffering from.

Mr. GREEN: Is it not unsound to have the same doctor working in the treatment branch and also deciding about pensions?

Dr. KEE: The treatment doctors never decide entitlement to pension.

Mr. GREEN: We have heard evidence here that they start questioning as to whether a pension is correct or not.

Dr. KEE: I think what you are alluding to is the case of a man who may be suffering from dementia praecox and on examination the treatment doctors say he has not got dementia praecox but has something else.

Mr. GREEN: Then what happens?

Dr. KEE: We do not necessarily have to take his opinion.

Mr. MUTCH: What has happened in the past?

Dr. KEE: We are very cautious before we change. Possibly we get other opinions.

Mr. GREEN: The evidence was given that Dr. Cathcart is also the expert on neurological diseases for the commission in addition to the treatment branch.

Dr. KEE: No; no connection whatever.

Mr. GREEN: He said so himself.

Dr. CATHCART: Then I was misunderstood.

Dr. KEE: We might ask Dr. Cathcart for an opinion, but that is a medical opinion as to certain things on his documents, and he must confine his answer to that question.

Mr. MUTCH: Is it the practice of the pension commission, for instance in your own quorum here, to call upon Dr. Cathcart or any other doctor in the treatment branch to advise you or advise that quorum?

Dr. KEE: To give evidence before the quorum under oath, yes; or we may ask for a stated medical opinion in writing.

[Dr. R. J. Kee.]

Mr. MUTCH: Then in that sense the pension commission does use the treatment branch for expert medical evidence.

Dr. KEE: We ask them for a definite medical opinion on certain medical facts.

Mr. MACNEIL: Dr. Cathcart this morning stated that in order to give a correct diagnosis it is necessary for him to go into the entire life history of the case of a man claiming pension or treatment, and that his investigation in that regard usually determines entitlement. If such opinion is rendered altering the basis of entitlement and is communicated to the pension commission, who checks that decision arrived at by Dr. Cathcart?

Dr. KEE: I think, Mr. MacNeil, that is hardly correct. Dr. Cathcart makes the diagnosis, but as to deciding entitlement, that is another matter.

Mr. YOUNG: Why should he have anything to do with it?

The CHAIRMAN: I think Mr. Young should ask a member of the committee to put questions for him, or Mr. Young may give evidence if he desires.

Mr. GREEN: Is it the duty of the treatment branch to go around the country and find out if pensioners are properly on pension?

Dr. KEE: That is the business of the department.

Mr. MUTCH: Does such a practice exist?

Dr. KEE: I know that the treatment branch people do re-examine men in institutions.

Mr. MUTCH: On instructions from your department?

Dr. KEE: We have nothing to do with that.

Mr. MUTCH: Then it is a gratuitous service to you or to somebody else?

Dr. KEE: No doubt they are keeping track of their people and judging what they are suffering from, and re-examining them from time to time.

Mr. MACNEIL: To illustrate what I mean I will cite a case where a man was found originally to have paranoid dementia præcox and later, while undergoing hospitalization, the diagnosis was changed to constitutional psychopathic inferiority and an anxiety neurosis. That was the decision of the treatment branch, subject to the supervision of Dr. Cathcart.

Dr. KEE: That is a change in diagnosis by the treatment branch.

Mr. GREEN: What right had the treatment branch to go around the country working up cases like that?

Mr. MUTCH: You mean, why should their decisions be referred to the Pension Commission?

Mr. GREEN: That is really the work of the Pension Commission, isn't it?

The CHAIRMAN: Not necessarily.

Dr. KEE: Sixty to seventy per cent of all our difficulties come from the department, from the doctors. We deal with the evidence presented to us, rightly or wrongly. I know it sometimes happens that a man is diagnosed wrong. Now, we do not necessarily have to have one man, or two men to three specialists. Often we have great difficulty in making up our minds as to what is the proper diagnosis.

Mr. GREEN: Is it not particularly tragic in the case of these nervous diseases, where a man finds that he is cut off pension or pension is cut down by that method?

Dr. KEE: They are the most difficult cases to deal with, I will admit that.

Mr. GREEN: What special consideration is given?

Dr. KEE: Well, where doctors differ we have cut off some pension. We are very anxious about it at the present time.

Mr. GREEN: What right does a man have to stop that cutting off of pension before it is cut off, is he given any warning or any chance to appeal?



Dr. KEE: Wherever we change any basis of entitlement we must give him an opportunity to appear before two commissioners.

Mr. GREEN: Before it is changed?

Dr. KEE: Yes.

Mr. GREEN: And before the pension is cut down?

Dr. KEE: Yes, before the diagnosis is changed, on the basis of his entitlement, before his pension is touched.

Mr. GREEN: No. But before his pension is cut down has he any right of appeal?

Dr. KEE: Cutting down might mean a change in assessment, his condition might be improved, and he would be raised up or down in the ordinary way. When there is a change of diagnosis and he loses his basis of entitlement to pension, it cannot be cut down until he has an opportunity to appear before two commissioners, before a quorum.

Mr. MUTCH: That is not a quorum; you mean, in the presence of two commissioners who have the power to make a decision.

The CHAIRMAN: They see him.

Dr. KEE: They see him. He has the right to bring his own witnesses to prove that his condition is as he claims.

Mr. MUTCH: But in effect if you reduce or recommend the reduction of a pension, you are then using the written or otherwise given opinion of the treatment doctor to justify that reduction which you are proposing to make.

Dr. KEE: We do. Naturally, the treatment doctors handle a large percentage of pensioners, and they have some of the best specialists in Canada.

Mr. MUTCH: Oh, well, yes.

Dr. KEE: And we take their opinions. We do not make diagnoses in our own selves.

Mr. GREEN: Is there any reason why you should not?

Dr. KEE: Yes. We have not the facilities, and we have not the specialists for doing so.

Mr. MUTCH: It seems to me that the Pensions Commission is one branch of the service which ought to be exceedingly well situated in that regard.

Dr. KEE: We would have to have specialists in every unit in Canada in each subject.

Mr. MUTCH: If they are necessary in the treatment branch they are even more necessary in the pension branch. There is more at stake.

Dr. KEE: These cases—I think possibly I am referring to what you had in mind—we have a number of them, cases that have been on pension and paid 100 per cent for many years for some mental or nervous disease and they are examined from time to time, and sometimes on review or re-examination after years it shows that they are not suffering from that disease. Then the difficult question arises at once as to who is right; as to whether the doctors who examined the man in the first instance were right, or those who make the subsequent examination.

Mr. MACNEIL: If as a result of the change in diagnosis it becomes apparent that the pension should be discontinued do you check one opinion against another? Are further specialists called in by the Pension Commission?

Dr. KEE: Very often, in nearly all cases, before a reduction is made we will arrange for the appointment of a board of arbitration of three specialists with the right to name one, one is probably a departmental specialist and the other one of our own doctors; and sometimes we call in three independent outside specialists, and we have used hundreds of these to examine pensioners.

[Dr. R. J. Kee.]

Mr. GREEN: Is there any permanency about a pension at all then?

Dr. KEE: Well, at the present time we are making all pensions permanent, except a few that we know will increase, or in cases where we know there will be some change.

Mr. MACNEIL: May I ask what the procedure is where a man is hospitalized in a mental institution, not left at large, and on examination by the treatment branch the diagnosis changes, it is determined that possibly a portion of the disability at least is of constitutional or congenital origin; is he released from that institution when he is taken off treatment? I have one case in mind where a man was released from an institution and was later picked up by the city police.

Dr. KEE: That does not happen.

Mr. GREEN: Surely, where a man is in a mental hospital the treatment branch does not go around there and decide that a man is not mentally incompetent?

The CHAIRMAN: Somebody has got to go and look after them.

Mr. GREEN: They are being looked after. There are doctors in these mental hospitals now, and if a man is sane they are the men who ought to know.

Dr. KEE: They do. These men are committed in the ordinary way.

Mr. GREEN: Do the treatment branch doctors go around to these mental hospitals and decide that an inmate there is not crazy?

WITNESS: I better answer that, I think. In this case here, for instance, which we have come to, I go around and see these men, and probably three-quarters of them are appealing to get out, and suppose I see a case in which I consider there was some real good doubt as to whether that man should be there, I would take particular pains to inquire into the whole case, and talk it over with the medical superintendent. Quite often the appeal is that a man has been deprived of his liberty too long. Now, that is clearly my duty and I certainly am not running away from it.

*By Mr. Reid:*

Q. You would not think the man in charge of a mental institution would keep a man there if he was fit to be out?—A. No, certainly not.

Mr. GREEN: That is very important. In British Columbia the superintendent of mental hospitals is only too glad to get rid of them.

WITNESS: You hear of actions being brought every day for the release of people who claim they have been wrongfully committed, or are being unlawfully retained.

*By Mr. MacNeil:*

Q. If you examine a man and change the diagnosis from dementia praecox to some other form of disease and you take him off the treatment strength automatically, what happens to that man if it is still held in medical opinion that he should be still held in an institution? He is off the treatment strength of the department. Is he left to the mercy of the provincial authorities entirely or is he discharged from the institution?—A. Do you mean, if the committal was for mania depressing insanity, or whether it seems to be dementia praecox.

Mr. MACNEIL: If he was found to have something different say—

Dr. KEE: Psychopathic inferiority.

WITNESS: It would depend entirely on the decision of the Pension Commission when considering it.

*By Mr. MacNeil:*

Q. You are responsible for treatment, and if he has entitlement for treatment the department pays his way in that mental institution, you make an allowance to the institution?—A. Yes.

Q. Then, you change your findings which destroys his entitlement for treatment? But it may still be necessary to confine him to that institution. What happens to the man?—A. He remains there. The destroying of his entitlement is not my affair at all.

*By Mr. Green:*

Q. You started it by your report?—A. I started it because I am not neglecting my duty.

Q. What happens to the man's wife in that case?—A. Well—

Q. She would lose her share of the pension?

*By Mr. MacNeil:*

Q. You must be well aware of the fact if the decision that is filed is that the disability is of a congenital or of constitutional origin, he loses entitlement for treatment automatically unless it is reviewed by some other authority. Now, what I am concerned with is the welfare of the man. What happens to him?—A. I am not admitting yet that the developments are as you are under the impression they are, Mr. MacNeil. That is, there is something comes between, I cannot go around any institution, see a man there, change his diagnosis and throw him off the strength instantly. I do not want that impression to be left because it is wrong. There is something that happens in the meantime.

*By Mr. Reid:*

Q. You have taken men from the institution, and after your diagnosis or examination the men have come back without any consultation with the institution or with others. I do not want to mention special cases.—A. Can you identify the case a little more? I am not at all sure whether I saw the man to whom you refer. I have taken no one from a mental institution in to Vancouver, I am quite sure of that; from Essondale to Vancouver. I was sure my own recollection of that did not fit into your memory at all.

Q. The information I wanted to get was who instructed you as to the names of the men whom you have to examine when you went out there?

The CHAIRMAN: In this case, according to Mr. Woods, the department had nothing to do with it at all; it was the provincial government who discharged him.

Mr. REID: The provincial government did not discharge this man. This man would have been confined in the institution only his wife said she could take care of him outside. He was still a patient; he was an out patient of the asylum.

The CHAIRMAN: That had nothing to do with the treatment branch of the department? It was an arrangement between the provinces of British Columbia and that man's family.

Mr. REID: You have not got the point right. This man was examined, I think, by Dr. Cathcart, who said in his opinion the man was not suffering from that mental disorder, and when the report came back to Ottawa here he was cut off for the time being. Then I came into the picture and appealed to Mr. Woods. I got a report from Dr. Crease, who had been in charge of him whilst in the institution. Dr. Crease said he was worse than he was before. Mr. Woods accepted Dr. Crease's statement and reinstated him for war veterans' allowances.

Mr. WOODS: I think there is one little error in that. He was examined by Dr. Archibald. Dr. Archibald examined him on a trip west.

The CHAIRMAN: Then it did come under the department, as Dr. Archibald is Dr. Cathcart's assistant.

[Dr. R. J. Kee.]



Mr. REID: Which brings up the point, who gives instructions to have these men examined?

*By Mr. Green:*

Q. May I ask what the procedure is, when you, Dr. Cathcart, make those periodical trips to Vancouver?—A. Well the first thing I do is see the neurological cases we happen to have on treatment at the Shaughnessy hospital. The next is to examine anywhere up to 40 or 50 men that the pension commission, the war veterans' allowances, the immigration department and several other people who occasionally ask me to see.

Q. Is there any inspecting done? Does a doctor go around to all the men in Shaughnessy hospital who may be suffering from T.B. and check them up every six months or a year, or does it apply only to nerve cases?—A. Well the Director of Medical Service or his assistant, when he comes around, checks those cases.

Q. Is there a regular examination every so often of the men suffering from other diseases, or does it apply only to neurological cases?—A. Pretty much only the cases which are mental cases.

Q. Why is that? Why should they have to be inspected by a central inspector every so often?—A. For the simple reason that this has been a fairly new subject, and that in certain outlying districts—

Q. You would not call that an outlying district. You have experts in Vancouver on those subjects?—A. We have, and have had and we have not had.

Q. Which is it?—A. All three. That is the point. Our service is a new service pretty much, and it is knowledge that is not very well disseminated.

Q. Are you not over-emphasizing the disease, the need for inspection? These men are in the hospital just the same as a man who may have a bad leg. You do not send doctors around to inspect his leg every six months.—A. I may properly tell you that the Ministry of Pensions have had the same principle in vogue for years, and they insist on a yearly inspection of their neurological cases.

Q. That might be all right for a man in Essondale mental hospital, but why in Shaughnessy hospital?

The CHAIRMAN: Perhaps this may explain it, doctor. It was never intended that we should keep violent mental cases in Shaughnessy, and I suppose they must be inspected to see if they are going to be passed on to a provincial institution. Is that the reason?

WITNESS: I can probably satisfy Mr. Green. I am not nosing around. I go to those places and I hate to mention these cases myself, and I have hesitated to do so until now. But these people ask to see me. I do not have to barge into their affairs; they ask to see me, a great many of them do.

*By Mr. Green:*

Q. Here is a man who is on pension in the hospital, getting treatment, for example. You have quite competent doctors in Vancouver, Winnipeg, Toronto and Montreal. Why should there have to be an inspecting doctor go from Ottawa every six months or every year to check up on all these cases? Is not that simply stirring up trouble?—A. You have the wrong idea of it entirely. It is not stirring up trouble; it is trying to keep the service at its maximum efficiency, in giving the best service to these men. That is my purpose and motive.

Q. I can quite understand why you go out there to make examinations for the pension commission or for the War Veterans' Allowance committee, special work like that, but why should it be your job to go around inspecting the neurological cases all over Canada?

*By the Chairman:*

Q. You do not do that?—A. After all there is a limit to a man's capacity. We have 1,109 mental cases on the strength at the present time. We must have

200 neurological cases of all description. We have a turnover in the neurological wards of 1,000 each year, and in the mental between 70 and 80. Now the question is answered. I cannot supervise them all.

Q. You do not?—A. I do not.

*By Mr. Green:*

Q. When you go to Shaughnessy hospital the first thing you do is examine the neurological cases in Shaughnessy hospital; you said that yourself?—A. Examine whom? I go around and see them.

Q. That is what I cannot understand?—A. "Examine," of course, perhaps creates a meaning I did not intend.

*By Mr. Mutch:*

Q. Unfortunately, the tenor of some of the evidence which we have had has been to the effect that, perhaps, it is a peculiarity of the disease that there is a feeling on the part of dependents and those associated with men suffering from neurological diseases, that they are in a class which is more or less persecuted; that they are being reviewed and examined and that their diagnosis is being changed, and they give us the impression in their evidence that there is a continual turning over and over trying to find out if a man who has some mental disturbance which is pensionable is, perhaps, owing to some circumstances in his history or his family's history not pensionable; and men who are on the border line of being crazy are almost driven so because they never know where they are going to get. That is the tenor of the evidence we have heard, and I think that is what is in the mind of the average person when he directs a question as to why there is this continual re-examination. Is it the hope that they may find that these fellows are actually better and can be turned loose, or is it the hope that the thing which is now considered to be pensionable is, perhaps, not pensionable at all due to something in his past history or the history of some of his relatives and, consequently, we have no further responsibility? That is the suggestion.—A. My attitude, Mr. Mutch, has not changed one little bit since I was in the provincial service in Ontario. Leave the pension question out of it. I was on the staff of two provincial hospitals in Ontario after I came back from the war—that was the only thing I could turn to—but I will tell you this for your information that when people deal with these people year in and year out, it does something to them; you will find them pretty usually, almost without exception, very humane types of people. That is all I can say to that. I have not changed my attitude one little bit. With regard to the pension side of it, I wish there was no such thing; but I cannot shut my eyes when I am asked to see a man and give an opinion; I have to say what I think is right. I cannot run away. I have no one to pass the buck to.

The CHAIRMAN: In other words, you are a doctor; you are not charged with the administration of pensions?

WITNESS: Yes.

*By Mr. Mutch:*

Q. My point is this. You have already read the evidence and seen the repeated suggestion over and over again that this situation arises, and my point is that you are here, and if there is any answer to that, it is a matter of privilege to give whatever answer there is. I am not pressing that suggestion, but I am deliberately giving it as frankly as that point can be raised in order to hear what your side of it is?—A. My side of it is this, that I would feel I was not doing my duty if I went around and sat in the office of the superintendent and had the odd drink with him and said good day and walked off. That to my way of thinking would leave ground for criticism.

[Dr. R. J. Kee.]

*By Mr. Green:*

Q. Yes, but you have your other special examinations to do, and surely these neurological patients are the last patients in the world that should be terrified by examinations?—A. Wait a minute—

Q. They must always have in the back of their minds that they will have their pensions cut off?—A. Terrified by examination is not the right word at all.

Q. Well, worried by an examination?—A. Nor worried either. You need only inquire around Ottawa and you can be corrected in respect to me.

Q. I do not say you alone; but a doctor from Ottawa going out there for a periodical examination of these neurological cases—is that not apt to worry them?—A. I would like to invite you up to Shaughnessy hospital the next time I go, to see the attitude of these men who want to see me, and after they have seen me.

Q. I might land up there myself.

The CHAIRMAN: I think what Mr. Green wants to know is what is there—I do not know the answer—why is it a matter of departmental policy, if it is, that the men should be examined once every so often? Is there any reason for it? Is there a good reason why they should be examined at all? I imagine what most members of the committee are driving at is to let these people have their pension.

Mr. GREEN: Forget about them, unless something comes up.

WITNESS: Sometimes we can help them. Sometimes we do.

*By Mr. Green:*

Q. If they want to help they will come fast enough.—A. Not often. Not necessarily.

Mr. MUTCH: A lot of them think they are all right.

The CHAIRMAN: No doubt a great many of them say they are all right and they want to get out. Does that happen?

Mr. GREEN: We are dealing with men in Shaughnessy who are not confined; they have gone on to the mental hospitals.

The CHAIRMAN: What about these men in Shaughnessy hospital? Why do they examine them?

Sir EUGÈNE FISSET: Because they are under observation.

*By Sir Eugène Fiset:*

Q. May I ask one question: is it not the fact that many times you are requested by the medical superintendent of Shaughnessy hospital to go on and carry on your examinations either semi-annually or three times a year?—A. I am sure I am not boasting when I say that they are glad to see me there, because they have a lot of problems lined up for me to look into, to help them with, to give them advice as regards treatment and so on.

*By Mr. Green:*

Q. I still do not see why a man suffering from nerve diseases has got to be examined every so often by a doctor in Ottawa?—A. It is not a question so much of examination—I am sorry if I gave you that impression. That was a word that did not quite convey my meaning.

Q. You said you would see every neurological patient in Shaughnessy hospital, did you not?—A. Yes, I said that.

Q. Is not that so?—A. Yes, that is so.

The CHAIRMAN: The request that Mr. Green makes is why you should see them?

WITNESS: Well, that has been the practice.



*By Mr. Green:*

Q. It has been the practice, and the habit has grown up.—A. And it is accepted as my responsibility.

Q. It should not be.—A. After all, I am indirectly—while I am there I am responsible to the director of medical services for the cases that are in Shaughnessy hospital.

Q. They are not your concern unless there is something special about them, any more than they are the concern of any other doctor in Ottawa to check up for a man who has been shot in the leg.

The CHAIRMAN: Is there a difference?

WITNESS: There is a difference in a way. In many of these hospitals, we have only part-time men—neurologists and psychiatrists who do not, in themselves, supervise the treatment.

Mr. GREEN: Yes; but they can always call in an expert.

Sir EUGÈNE FISET: Are there such experts?

Mr. GREEN: Yes, there are.

WITNESS: We are fortunate to have one at the present time, but if you will look back you will find that I have been simply carrying a load for a few years.

Mr. GREEN: Doctor, there have been men in Vancouver who have been experts on mental diseases for twenty-five years—recognized as such, certainly, all over the province, and all over the west coast.

*By Mr. Mulock:*

Q. You said that you went over a man's whole history over a period of his life time as far as it is possible to get it complete—you said that?—A. Yes.

Q. Now, with regard to these neurological cases, when they are admitted to hospital do they have a general examination, or is it confined to an examination by the neurological branch?—A. That has been one of my particular insistences, and that is that these men must be given the same careful examination as if they were suffering from typhoid fever or anything else. In my work I always begin or finish with a physical examination. I cannot tell you whether I begin or finish, but I always do something, and it is a very important point.

Q. Now, you go to Christie street hospital in the course of your duties, do you not?—A. Yes.

Q. And you say that it is the custom of the department then to give a man a thorough physical examination even if he is a neurological case?—A. Yes.

Q. Has that always been done or is this a new rule?—A. No. In certain districts that has been the rule long before I was there.

Q. Is it at Christie street?—A. I think that is fairly regularly followed in Christie street.

Q. Have there been cases, to your knowledge in which that has not been carried out?—A. I do not think I know of any.

Q. In your opinion, is it possible for a man, a neurological case, to be dismissed from Christie street hospital as requiring no further treatment when he has something seriously wrong with him? This is under your branch.—A. Yes. Oh, I suppose it is possible.

Q. In neurological treatment—I want to be corrected if I am wrong—I understand that it is not the policy of the doctors to encourage a man in the belief that there is anything wrong with him; in other words, it is the policy to take the other attitude rather, believing it is in his interests to give him the idea that there is not anything seriously wrong with him. Is that correct or not?—A. That is fairly uniform in the medical profession.

Q. That is correct?—A. Yes.

[Dr. R. J. Kee.]

*By Mr. Mutch:*

Q. You said this morning that, in order to have a proper approach to an understanding of these neurological cases, you needed to have the whole life history of the patient. It seemed to me, following that suggestion, if you treat these cases in that way and it is the only way they can be treated, there would be the tendency—and I am asking you if you do not think there would be—to make it difficult, if not impossible for a man to attribute his present neurological condition to the two, three or four years that he might have spent in the army. I think you said you cannot take any chunk of two or four years out of his life, and base a decision upon that. I am suggesting to you if that be taken literally, then it is making it exceedingly difficult for any man to prove a present neurological condition.—A. How literally you can take it is indicated by the pension record. I think they have about six thousand cases of functional nervous diseases on pension. We must have several hundreds on pension for mental disease.

*By Mr. Green:*

Q. Is it your opinion that war service had anything to do with causing insanity?—A. I am afraid that opens up a big subject. I have had some surprises on that lately myself.

Q. You could give us your opinion on that question. You are an expert on that subject.—A. Well, the causes of mental disease lie pretty much in a person's personal history, as much, if not more so, than all environment put together. Now, that is our experience in dealing with these cases, and when we face that aspect of it we can deal with them constructively. The statistics in connection with it are pretty astounding. I always hesitate to speak in terms of statistics because you can put any interpretation you like on them. Then again they give information which even I do not like to have.

For example, I am asked occasionally to address neuro-psychiatric groups on the subject of these conditions, and naturally they want figures, statistics, opinions and so forth, and they want fairly accurately. I was asked this spring to give an address in Toronto. I did so to a neuro-psychiatric group, and in preparation I thought I would like to obtain some of the figures from one of our hospitals. I will not mention the hospital for a very particular reason. I made a statistical study in my own time, and by my own time I mean about four hours a night because you can only cover one case an hour, or you are lucky if you can cover one case an hour, and I covered altogether 150 cases. I did not pick and choose them, I took them alphabetically from one of our hospitals. These were all mental cases, and some statistics came out of that which were even surprising to me.

Mr. GREEN: All I want is an answer to my question.

WITNESS: I can sum it up pretty much in this way; that the information I obtained from a study of cases on the strength at the present time, which after all must represent some sort of a cross-section of the incidence of mental diseases in soldiers, was even against what I had anticipated; that is, it seemed to point against war service being even as much of a factor as I had considered it myself.

I can only add to that the opinion of a prominent psychiatrist who expressed himself at a meeting of the United Service Club in London, England, and reported in the British Medical Journal of July, 1935, which meeting was more or less in criticism and in conjunction with, if you can grasp the significance of that, of the ministry of pensions in their dealing with neurological and mental cases. This man, Dr. Maypothor, who is the superintendent of Maudsley Hospital and has been a consultant for the United Service League or Institute, I am not sure which it is, for many years, gave it as his opinion that the great majority of these

mental cases which the ministry of pensions had in their hospitals would have been institutional cases in any case. Now, he was quite definite in that statement.

*By the Chairman:*

Q. And you share that opinion?—A. I am afraid I am compelled to.

*By Mr. Green:*

Q. Your opinion, really, is that war service had nothing to do with causing insanity?—A. I will not say it had nothing to do with it at all because I know of cases where I think there is no question but that it was an exciting cause, and definite instances probably not so much in connection with what we regard as war service as other things in connection with it.

Q. What do you mean by that?—A. One lad—I recall having seen the case recently—had very good service. He was one of the men in this hospital, and he had the best service of all. I think he was about two years, or a year and a half, at any rate, as a stretcher-bearer and eventually as medical sergeant of a medical unit in the 1st Division. He was quite all right, perfectly normal, until some date in 1917 when he went home to Glasgow on leave. There he went to visit his mother who was in the asylum. He came back, and two days after he got back to his regiment at the front they had to evacuate him as a mental case. Now, coincidentally, that was related to war service, probably more so than I have indicated. I would not hold any opinion against that man's entitlement to pension. He is on pension for dementia praecox incurred during service, and I have no quarrel with it whatever. But I ask you to look at the thing in its own light and see what you think of it.

Q. Am I fair in saying that, in your opinion, the majority of the mental cases among returned soldiers are not the result of war service but are, shall we say, congenital or because of their life before they joined the army?—A. Not necessarily at all. After all, our personality, our make-up at the present time, is the resultant of a whole lot of things that have gone before, and there is no doubt that the first seven to ten years of a person's life constitute a determining factor. Psychiatrists all agree that the first ten years of a person's life is really the most important period from an emotional point of view. I am not dealing with that case that I mentioned as a congenital or hereditary factor, but I mention it to show the other factor. This man became panicky when he saw his mother in that state. That was something with which he could not cope.

*By Mr. Green:*

Q. Then in your opinion the war, generally speaking, had very little to do with soldiers losing their mental balance?—A. I am very reluctant, naturally, to think that; but I quit making this statistical study because it was rather depressing.

Q. Is your answer Yes or No?—A. I am afraid it approaches Yes.

*By Mr. Mutch:*

Q. Without including it in the record, could you give us the result of that statistical study?—A. Yes, I shall be very glad to do so.

*By Mr. Green:*

Q. You mentioned visiting institutions in Vancouver. What else did you do?—A. I visited Essondale.

Q. And did you examine every case?—A. I would go around and see every case and talk to them and ascertain that they were well clothed and satisfactorily looked after, and deal with their complaints. A great many of these people have complaints some of which I am accustomed to hearing and which

[Dr. R. J. Kee.]



have no particular meaning, but nevertheless they are complaints and I have to listen to them.

Q. Does that complete your work in Vancouver? (No response).

*By the Chairman:*

Q. You said something about dealing with immigration?—A. That is a smaller proportion, the health branch and emigration.

*By Mr. Green:*

Q. Why cannot you simply examine those who are referred to you by Dr. Crease, the head of the institution?—A. For the reason that they are on our strength and questions frequently come up. Questions are asked of our department with respect to this man and that man.

Q. There would not be questions asked about every single soldier?—A. No; but we cannot make any selection.

Q. If you are asked about one particular case you have to go and examine into that case, but why do you make a general examination?—A. Well, I have made it because, as I explained before, I consider it to be my duty.

Q. And you do that all over Canada?—A. Yes.

*By the Chairman:*

Q. You do not examine them?—A. No.

Q. You see them, and say "How do you do?" to every one of our patients in any institution other than our own? (No response).

*By Mr. Green:*

Q. There are a lot of soldiers in the tuberculosis hospitals at Tranquille. Does anyone go around and examine those patients?—A. I think Dr. Miller visits those institutions, and I am sure if he visits them he sees the patients.

Q. Is there a regular inspection of every soldier?—A. Not as frequently as mine, because after all these are different cases.

*By Mr. MacNeil:*

Q. You are familiar with subsection (b) of section 11 of the Pension Act, dealing with pre-enlistment disability?—A. I am familiar enough with it to talk about it.

Q. I suggest to you that it was clearly the intention of parliament that that subsection should afford some measure of protection to those who served in a theatre of actual war even though they had a pre-enlistment condition. You are aware, too, of the exception made in that subsection: "or was a congenital defect"?—A. Yes.

Q. You are associated with the director of medical services not only in determining a correct diagnosis of these cases but, as you suggested in your evidence this morning, in giving a diagnosis in such form as to determine entitlement? Is not that correct?—A. A diagnosis is readable. I avoid particularly giving any conclusion that would have particular reference to entitlement.

Q. Perhaps I can illustrate what I mean by giving you a case. I will get the chairman to give you this précis later. This man had three enlistments. On his first enlistment he served in France and his record of hospitalization is for epilepsy and mania. In his second enlistment he served only in Canada and his medical history is practically uneventful. On his third enlistment he served in France and was treated for three things, shell shock, neurasthenia and an eye condition. He was pensioned upon discharge at a rate of 30 per cent for neurasthenia and I think spasmodic affection of the eye. But you brought down a diagnosis of the case as being psychopathic personality with spasmodic affection of the eye and anxiety neurosis. As a result of that diagnosis

of neurasthenic disability as being of congenital origin or constitutional origin entitlement was denied the man. Now, I bring that to your attention to illustrate how important your diagnosis is, and that diagnosis with reference to this case does definitely determine entitlement, does it not?—A. The disability is the basis probably of entitlement. That is a matter for the Pension board to decide accurately.

Q. I suggest, or is it not true, that you are the final court of appeal as far as treatment is concerned; that is, you render such diagnosis and pass that on to the Director of Medical Services. It would be very unusual for him to question your decision, and the man's entitlement to treatment would be denied him. Is that the usual procedure?—A. Well, you are centralizing these cases here. It does not exist in practice. That is, ninety-nine per cent of these cases are dealt with in the district offices. The matter of whether they have treatment or whether they do not is rarely my affair.

Q. This is one of the cases to which Mr. Green had reference. The man was seen by you in consultation with a Winnipeg neurologist, and as a result of the diagnosis entitlement either to treatment or pension was reduced. Perhaps it would refresh your memory if I were to pass you this précis?—A. Well, I recall that case. I recall having seen him in Winnipeg with Dr. Leslie. There is not any question of doubt that a lot of the previous diagnosis, and so forth, were made in error, without sufficient facts available regarding the actual happenings in the history.

Q. Well then, relating this case to your evidence of this morning, you said that it was necessary for you to inquire to some degree at least into the early history of the man. Are we to assume from that that you go to all these cases and make a special inquiry and form opinions with regard to pre-enlistment history in each case? Does that suggestion a special review of neurasthenic cases to determine whether they are of congenital origin or not?—A. That would be an enormous piece of work. I cannot begin to do that. I frequently meet cases, every day in fact, civilians and soldiers, on which I start in with where they were born and work up the whole history. That is my pattern, taking the history.

Q. That applies to all cases that come to your attention?—A. All functional neurological conditions. If a man has a brain tumour, or an injury to his spine, or an injury to his head, of course I do not.

*By the Chairman:*

Q. What I think Mr. MacNeil is getting at is do you make a practice of reviewing all these cases, or have you been doing it in the department?—A. When the case was referred to me.

Q. By whom?—A. By the Pension Commission, by the local district pensions authority, the district medical staff or my own neurological staff; they all refer cases and ask me to see them. I do not dig that information up. I think, Mr. MacNeil, that in most cases that information is already on file, on the military documents, if I am not mistaken; the man's own statement.

*By Mr. MacNeil:*

Q. Your diagnosis is the main evidence in determining entitlement. This was a case where a man had epilepsy and mania on service, and it was assumed up to the time you examined him that he would have the protection of that subsection of the Act, that they would not take into consideration the pre-enlistment condition. Is it correct to say that of these cases that in a very high percentage, as you have reviewed them, you found that in your opinion a certain portion of that disability was congenital in origin, and that therefore they are barred under this section?—A. I am afraid that is tremendously over-rated, because I am

[Dr. R. J. Kee.]

sure we have not more than 10 per cent in which there is any indication of the constitutional aspect, in spite of the fact that it is a very prominent feature in a great many.

Mr. MACNEIL: I wish to show you a number of cases—I do not know whether they should go in the evidence or not, that will be for the chairman to decide—but these are certain cases where your diagnosis has definitely changed the man's entitlement, the man has either been denied treatment or had his pension reduced as a result of that diagnosis.

The CHAIRMAN: Do you want to put them in without the names?

Mr. MACNEIL: Yes, without the names, Mr. Chairman.

*By Mr. MacNeil:*

Q. I should like to ask you, Dr. Cathcart, if a man, in your opinion, has a constitutional mental defect, and it was found that there was a neurosis which developed on service, how you would distinguish between neurosis super-imposed on constitutional disability?—A. Of course each one has a different pattern, the same as in typhoid fever. Every doctor will tell you the symptoms of typhoid fever, how that comes along. In mental and nervous diseases it has not got a distinguished pattern, but is just as definite a pattern as the other. I might make a comparison. Very few people know much about nervous and mental diseases. You would be surprised at the number of physicians who meet with cases of that sort and throw up their hands; whereas they could easily do something, because after all a lot can be done constructively for these people. Mostly functional nervous diseases are curable. The pattern or response is very definite, and that is what permits us to tell whether a case is a constitutional psychopathic, whether it is a neurosis on top of a constitutional psychopathic, or whether it is straight neurosis, dementia praecox, manic depressive insanity or what not.

Q. Is it not reasonable to assume if a man has an inferiority complex or a psychopathic personality or something like that, or a fear of crowds, as I indicated in this case, if it had not been for service he would have proceeded along his way quite easily, there would probably have been no abnormality of conduct. He suffers from something that happened on service, due to hazards or strain or injury and it results in neurosis. Is it not reasonable to assume that that is the chief contributing factor to the mental disturbance even in that man after discharge?—A. I think that is generally conceded.

Q. Why should distinction be drawn between the constitutional part of the disability and the other?—A. It is only drawn where it is inescapable. That is the only answer I can give to that, because I certainly do go out of my way to check all constitutional elements or point them out.

Q. In reaching your diagnosis as to constitutional origin of the disability do you base your opinion on facts, established facts or is it in the majority of instances merely conjecture or medical opinion?—A. Of course, I can check the man's history and I can pretty nearly tell what are facts and what are not. I cannot tell you exactly why that is, but I can be fairly assured in my own mind what are facts and what are not and I base it on what I consider are facts, the man's present reaction, which after all conveys a pretty clear meaning.

Q. In the absence of established facts, can you say that psychiatry is such an exact science at this time that you can definitely determine that it is of constitutional origin when you are aware of the fact that the declaration of the constitutional origin deprives a man of treatment or pension?—A. Well now, that is asking me a question that I am—I try to call these cases as I see them. That is clearly my duty. As far as what the pension commission decides after, that is their duty.

Q. They have no alternative if you declare that, or if the medical opinion is that it is of constitutional origin there is no alternative under that section of the act.



The CHAIRMAN: Dr. Kee does not agree with that, do you Dr. Kee?

Dr. KEE: We do not have to take any diagnosis, but we do take the diagnosis especially in a great many cases and in other cases where the question—

The CHAIRMAN: That is so. Dr. Cathcart is not the final court in these matters. You can go above him, or below him, or around him.

Dr. KEE: Yes.

*By Mr. MacNeil:*

Q. Is it not true that Dr. Cathcart is the final court in neurological cases as regards treatment?

The CHAIRMAN: I would think so.

Mr. MUTCH: You cannot have it both ways. A couple of days ago we were damning the commission all over, riding the medical opinion. On the other hand we turn around to-day and say in regard to neurological cases they should not have the say. We can establish from Dr. Cathcart's opinion as to whether or not psychiatry is sufficiently an exact science to arrive at this conclusion, or whether it is something in the nature of a guessing competition to a great extent. If you, Mr. MacNeil, can establish your question as to whether or not it is sufficiently an exact science as to take the opinion of one man to deprive the man of his pension, all right. I think that is what you are after, is it not? If you had an answer to that question it might help.

*By Mr. MacNeil:*

Q. I am speaking of the man confined to a mental institution. Where the diagnosis has been changed, does the department then disclaim all further responsibility for that man?—A. If the pension commission decided the condition is not pensionable we have no authority to continue further responsibility.

Q. Of course if the relatives were unable to provide any maintenance the tendency would be for the provincial institution, if possible, to discharge them?—A. No, that is very wrong. I am sure the provincial people would rise up in arms at that statement.

*By the Chairman:*

Q. Am I right in making this statement—I am making it after hearing the evidence—if we stopped paying for him at the provincial institutions, he becomes a charge on the provincial government instead of the federal government, but his treatment is the same; is that right?—A. Absolutely sir.

Mr. GREEN: And his people are out of luck.

The CHAIRMAN: He does not suffer, but the family suffers in that he is taken off pension or treatment or pay and allowances, whatever the case may be. Then the question arises, is the government of Canada to be responsible to everybody who has a disease that is not attributable to or incurred on service.

*By Mr. MacNeil:*

Q. In such cases where you change the diagnoses and find neurosis superimposed on a constitutional psychopathic condition what, in your opinion, is the necessity for making that kind of a distinction?—A. On a man's condition at the time I saw him, his whole life history as I checked it.

*By Sir Eugène Fiset:*

Q. How do you get the whole history of the man? Do you get it from a perusal of a file and the information contained therein, or do you get it from an examination of the man himself?—A. Both, yes sir.

Q. Practically speaking that is what you do?—A. Practically that.

[Dr. R. J. Kee.]

Q. You do not take the trouble to inquire from the man's relations or neighbours where he has been living. If you have not got the information on file you simply examine the patient and from his answers you decide?—A. Mostly an examination of the patient.

Q. You do not care too much about the past history?

*By Mr. Mutch:*

Q. You cannot be sure from the examination of the man that he was pampered in his youth?—A. No; that is only one very small factor. There are very few of that kind, I can tell you that.

*By Sir Eugène Fiset:*

Q. That is where the specialist examiner comes in? I think Dr. Cathcart could extract more information from a patient in five minutes that he will know himself is right or wrong than I could or any one of us. I think if he examines the patient sufficiently it is easy to see that past history is not so formidable as we thought it was.—A. Perhaps I should add that the motive behind taking the life history is in order to deal with a person constructively, help him; that is the whole motive behind any physician doing that.

Q. You left the committee under the impression, when you mentioned life history, that you were going to tremendous trouble to inquire into the history of this man's father or grandfather and so on to see if they had been crazy, or suffered from any neurological troubles. All you are doing is simply examining the files and the patient himself?—A. That is exactly it. I believe I have written in one case.

*By the Chairman:*

Q. You have written in one case?—A. I think I have written in one case.

Q. That is all you can recall?—A. That is all I can recall. But I see relatives all the time but I do not necessarily go out of my way to see them, they come to see me, most of them.

*By Mr. MacNeil:*

Q. Do you consider it constructive treatment of those cases, doctor, to discontinue pensioning that portion of the disability considered of constitutional origin and consider pensioning the neurosis 5 per cent or 10 per cent when the man is almost totally incapacitated?—A. On that neurosis proposition rate where you are speaking of terms of total incapacity, you are wrong.

Q. The pension may be continued in some of these cases at the rate of 15 per cent or 10 per cent from neurosis which you admit, but discontinued from a psychopathic condition which in your opinion originated prior to service, was constitutional or congenital.

The CHAIRMAN: Dr. Cathcart does not fix that at all. He does not fix the percentage or anything else.

Mr. MACNEIL: On that point I was going to question Dr. Cathcart. There is a précis here where Dr. Cathcart gives a definite assessment.

The CHAIRMAN: I did not know that. Did you ever give a definite assessment?

Sir EUGÈNE FISET: He said so this morning. He must be asked, in this case.

WITNESS: I am asked sometimes. I think the file will show that either the pension medical examiner for Vancouver or the Pension Commission here asked me to see that man and give an account of the case.

Dr. KEE: I would not give any account without having the file.

The CHAIRMAN: That would appear to be a case in which Dr. Cathcart was instructed by the commission to examine the man, if he made an assessment at all.

Dr. KEE: He does not make an assessment unless, possibly, on some report that is difficult. The pension medical advisers or the examiners come to him and say, "Here, what about those reflexes or re-jerks"? or that sort of thing; and possibly he might be asked.

The CHAIRMAN: In that case he would be acting for the Pension Commission and not for the treatment branch at all.

Dr. KEE: Exactly; but that is very rare—not once in six months.

WITNESS: Practically only in those cases which I have examined myself, and that is why they asked me for an opinion.

*By the Chairman:*

Q. But as a treatment doctor you have nothing to do with entitlement; that is clear?—A. Yes.

Dr. KEE: Nor assessment.

WITNESS: Nor assessment.

Mr. BROOKS: But his opinion directly affects it.

Sir EUGÈNE Fiset: Like all medical evidence.

Mr. MUTCH: It is particularly potent in its effect.

Sir EUGÈNE Fiset: They seem to blame him because he is a good man, that is all.

*By Mr. Brooks:*

Q. I would like to ask Dr. Cathcart about the proportion of insane and nervous diseases among the returned soldiers compared with the civilian population—whether it is greater or not?—A. Well, I have the figures in my mind for the number of mental cases that came to light during service,—1,750. Now, when you consider that the total enlistments were 619,000 and that the average period of service would be about two years—when you consider that the present total mental population of Canada is between 38,000 and 40,000 out of our present population, and we have an admission list of mental cases to institutions of a little over 8,000 a year—you can judge for yourself what the comparison is.

Q. Of course, you have to take the men—you would have to take the figures as they relate to men only?—A. I could probably give you some background by which to figure it on the basis of men and women. The present day statistics of those 38,000 or 40,000 mental cases shows that 60 per cent are men. That was a little bit of a surprise to me. Well, I figured that out for myself one time, and as nearly as I could make it, basing it on the probable adult population—because after all, mental cases come only from the adult population; you never see a mental case under seventeen years—I have seen them, but they are so rare that I can count them on the fingers of one hand in 20 years' experience—so that figuring it from what I think may be the adult population of Canada, the proportions are about the same, so that I would judge that the incidence of mental diseases during service was practically the equivalent of that occurring in civil life.

*By Mr. Brooks:*

Q. Of course, the soldier was a selected man. You would not expect to find nearly as many among the soldier group as you would among the civilian group?—A. Yes. I think that is a reasonable statement. At the same time, there is some disillusionment in this work, as you can imagine. I can give you

[Dr. R. J. Kee.]



instances of at least ten cases that were enlisted straight from a mental institution—at least ten, without any effort.

*By Mr. MacNeil:*

Q. I wish to record my opinion that it does not seem within the realm of common sense to accept the decisions that have been rendered in some of these cases. That is the criticism advanced by myself and other members of this committee. I have here a case of a man who served in France. He was hospitalized for a nervous breakdown, paranoid dementia praecox. The diagnosis was changed to constitutional psychopathic inferiority and anxiety neurosis mild, and entitlement was awarded for the neurosis but not for the psychopathic personality. I submit there was no evidence to justify the diagnosis of the constitutional condition, or to explain why any constitutional condition can be separated from anxiety neurosis, the former non-pensionable, the latter incurred during service, and where the constitutional condition can produce a 20 per cent disability and the anxiety neurosis 5 per cent. Neither condition can be demonstrated by visible brain or nervous system lesions. In fact, there seems no pathological means of setting out these disabilities as separate identities for either diagnosis or assessment; and I submit that the opinion that this man is a constitutional mental inferior is based on theory rather than on fact. It is very difficult for members of this committee to understand how any scientific procedure could be devised, as the science of psychiatry now stands, to determine the difference or accentuate it at least to the point where the man is apparently denied all benefit of the doubt; and that Dr. Cathcart, in his decisions, has very largely defeated the intention of parliament as expressed in this subsection B of section 11. I also desire that these cases should be examined in some way. Possibly Dr. Cathcart would wish to present a further opinion in regard to them.

The CHAIRMAN: Do you want Dr. Cathcart to discuss these cases?

Mr. MACNEIL: The evidence has not been brought to the point where we can form any fair opinion on this matter. Either the act is wrong or, apparently, Dr. Cathcart is unaware of the fact that the diagnosis in these cases debars the man.

WITNESS: I am not unaware of it at all. I have been in the department since 1924. But that is not the prime purpose behind this. After all, any medical examination is for the purpose of arriving at the truth. Now, if you want me to go around and give shoddy diagnoses, shoddy examinations, shoddy opinions—well, you will have to get somebody else.

*By Mr. MacNeil:*

Q. If you are thinking solely of the benefit of the man, would it not be sufficient to say, "This man's condition is such and such; he has a psychopathic infection, he has neurosis, and treatment is justified on such and such conditions," without advancing theories as to his history.—A. Well, the Pension Act makes a distinction. There must have been some purpose behind that. That is, that must in itself sort of recognize that there is a difference from the point of view of relationship to service, between that which the man had before, whether it is a congenital mental condition or whether it is an eye out.

Q. For instance, in syphilis—which is an extreme case—if the infection pre-existed enlistment it is held that the exposure and hazard of service caused a flare up of this disability and the degree of disability determined upon discharge is recognized as pensionable. It seems unfair discrimination to categorize these neurological or mental cases as constitutional?—A. If they are constitutional, what is wrong with it?

Q. They are debarred under the Act.—A. Well, that is none of my business.

Q. My point is that they base it on theory rather than findings of fact.—A. Well, the same thing might be said in this case. I am sorry Mr. Reid is not

here; this would probably be understood better. I have thousands of people who say to me regarding pipe music, for instance, "Well, it is all one sound to me. It is just one monotonous whine." Yet anyone who knows anything about pipe music can distinguish individual tunes.

Mr. MUTCH: You cannot commit a man, unfortunately, because he does not appreciate pipe music.

Mr. McLEAN: It might be ground for doubting his general development.

The CHAIRMAN: Does the committee want to hear further from Dr. Cathcart? I think Mr. MacNeil has got certain views with regard to changing the Act.

Mr. MacNEIL: My only suggestion is that as we have had these cases brought in evidence, it is only fair to Dr. Cathcart that he should have an opportunity to submit something to the committee dealing with them.

The CHAIRMAN: Could we not do that even after closing open hearings? We could hear Dr. Cathcart in camera some day. I am anxious to get to work and see if we can clean this up. We can always hear Dr. Cathcart at any time, particularly when we come to discuss that particular section of the Act which Mr. MacNeil is interested in.

Mr. MUTCH: Before we come to discuss this particular section, or whether we do or not, there are certain definite impressions that have been created in the minds of certain members of the committee. The only question would be to get a confirmation or otherwise from Dr. Cathcart, who is the only one we can get it from. I think we should hear his explanation.

The CHAIRMAN: We could hold that over. As soon as we start to have our sittings in camera we could hold an open session after closing, to give Dr. Cathcart an opportunity of replying, or going through all these cases.

Mr. MUTCH: It is too much to expect him to have looked them over by to-morrow morning.

The CHAIRMAN: Yes. You cannot do that.

Mr. MUTCH: That is what I say.

Mr. MacNEIL: That would apply to Colonel Mulock's cases too.

The CHAIRMAN: Yes. I think there were one or two cases cited by other witnesses.

Mr. MUTCH: Excerpts from four decisions, I think—four or five.

The CHAIRMAN: Yes. I think General Ross filed a certain number of cases.

Major BOWLER: I think there were about six cases filed by General Ross.

The CHAIRMAN: Would you look into those cases and give us a kind of précis of them all?

WITNESS: Yes.

The CHAIRMAN: To-morrow I do not suppose we sit, as there is a caucus.

Mr. MUTCH: No.

The CHAIRMAN: How about to-morrow afternoon? We have two more witnesses, and I am personally very anxious to get through.

Mr. McLEAN: Who are they?

The CHAIRMAN: We have Mr. White asked for by Mr. MacNeil. Would you be very long, Mr. MacNeil?

Mr. MacNEIL: Oh, no.

The CHAIRMAN: Could we ask him to come now and give us another ten minutes?

Mr. MUTCH: It is after six o'clock now.

[Dr. R. J. Kee.]

Sir EUGÈNE Fiset: Why not sit at eight o'clock to-night and clean up these witnesses?

Mr. MACNEIL: I cannot.

The CHAIRMAN: Let us sit at four o'clock to-morrow and clean up these two witnesses. After that we will take time off to read all this evidence and be ready to discuss it when we come back after the recess. Is that agreeable to everybody?

Some hon. MEMBERS: Agreed.

Mr. MACNEIL: You permitted a member this morning to submit a list of communications. I have a list which I would like to have incorporated in the record.

The CHAIRMAN: Yes.

See appendix G.

The committee adjourned at 6.05 p.m. to meet again on May 20 at 4 p.m.



## APPENDIX "A"

*(Translation)*

## NATIONAL ASSOCIATION OF VETERANS

MONTREAL, May 4, 1936.

Hon. Charles G. POWER,  
Chairman,

Parliamentary Committee on Pensions and Returned Soldiers' Problems,  
House of Commons,  
Ottawa, Ont.

Honourable MINISTER and CHAIRMAN,—May we respectfully ask you to have the reference to two hundred and fifty thousand dollars contained in the second paragraph of the introductory letter *re*: various proposals recently adopted by our Association and which I am forwarding you to-day by registered mail, changed to two hundred and fifty million dollars.

Yours very respectfully,

WILFRID LAMOUREUX, *President*.  
4616 Christophe Colomb Street, Montreal.

National Association of Veterans of the Province of Quebec.

*(Translation)*

Telephone: Frontenac 8631.

4616 Christophe Colomb St.

## NATIONAL ASSOCIATION OF VETERANS

MONTREAL, May 4, 1936.

Hon. Charles G. POWER,  
Chairman,

Parliamentary Committee on Pensions and Returned Soldiers' Problems,  
House of Commons,  
Ottawa, Ont.

Honourable MINISTER and CHAIRMAN,—I have the honour of respectfully submitting to your attention and that of the distinguished members of the Parliamentary Committee on Pensions and Returned Soldiers' Problems the hereunto annexed factum of an important series of recommendations unanimously adopted during the most recent meetings of the National Association of Veterans, at Montreal, P.Q.

Honourable members of the Parliamentary Committee will observe in perusing the enclosed documents that all these requests are just and reasonable. Especially outstanding is the request relating to the payment of a bonus in the form of miniature bonds through the medium of national lotteries which would call for deep study and immediate action because it has a vital bearing and makes adequate provision for Canadian returned soldiers and commends itself from an economic and practical standpoint by reason of the fact that such action would ensure a greater purchasing power, a more even financial distribution and mark a new era in Canada's commercial progress without burdening the Treasury. This measure should be considered humanely without any spirit of political partisanship and without regard to egotistical and abstract objections. This bonus

could be distributed in two instalments to those entitled thereto. A sum of from two hundred to two hundred and fifty thousand dollars would be sufficient for the first instalment and would be subscribed in a few days by those who possess the national wealth. I am at the entire disposal of the Parliamentary Committee in connection with any other particulars that may be desired with respect to the welfare of my old war comrades.

Yours very respectfully,

WILFRID LAMOUREUX, *President.*

4616 Christophe Colomb Street, Montreal.

National Association of Veterans of the Province of Quebec.

*(Translation)*

True Copy of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, P.Q., on Friday, January 31, 1936.

Unanimously Resolved:—

"Whereas the National Association of Veterans has at the present time in its possession a voluminous file of signed letters emanating from genuine veterans in the province of Quebec and showing clearly that they are just now suffering great distress and that it is incumbent on the proper authorities to give attention to the task of redressing their grievances immediately.

"Whereas since their return from the Great War, Canadian veterans note with bitterness that the State has lamentably ignored the promises made at the time of their enlistment and that only about one tenth of the total number of men who served honourably in the Canadian Expeditionary Forces received just and adequate treatment and that the other nine-tenths were abandoned ungratefully to their own fate in this country, and if it were not showing a lack of respect for the various federal governments that have successively been in charge of the country's affairs, one should say that nine-tenths of Canadian veterans were treated dishonestly, especially for the following reasons, because they fought for a pittance of \$1.10 per day, while those engaged here in Canada in the task of supplying our armies were receiving salaries of fifteen dollars and more per day, and it is precisely these last expenditures added to the other war profits that piled up Canada's present considerable debt and which Canadian veterans are unjustly obliged to pay in the form of taxation, this, notwithstanding that they paid the ransom of blood and made other sacrifices involving their youth, their health, their time, their future, etc.

"Whereas deep unrest or discontent will continue to manifest itself in Canada so long as the legitimate claims of our veterans who constitute a large and important proportion of our human capital are not fully satisfied.

Therefore, it is unanimously resolved:

That the members of the National Association of Veterans respectfully pray the Nation's Parliament to adopt the following recommendations during the coming federal session:—

1. Appointment of a Parliamentary Committee to consider and take a decision with respect to the questions hereafter enumerated: A medical examination for all those who served. Settlement of claims for arrears of pensions. Amending of the Soldiers' Pension Act by increasing the scale of pensions for all who are in receipt of a pension of less than 30 per-cent. Amend Bill No. 19 and apply its provisions to all those who served honourably in an actual theatre of war or not and who have reached the age limit, also to set the monthly scale of allowances at \$35 for unmarried veterans and \$50 for married veterans.

Payment of an indemnity or bonus in the form of miniature bonds similar to those provided under the American plan to all those who served honourably in the Canadian Expeditionary Forces and to all British subjects domiciled in Canada prior to August 4, 1914 and who are still living in this country and who served honourably in the Allied armies during the Great War, this, in the first instance, in fulfilment of the promise made by our great political parties in 1917 and 1919, and secondly to ensure to Canadian veterans proper civil re-establishment. Finally, the payment of the said bonus will create a practical purchasing power in this period of economic crisis. Extension of Returned Soldiers' Insurance to a period two years beyond the termination of the unemployment crisis. A greater preference to Canadian veterans in civil employment or under contracts for the execution of public works. More advantageous loans to veterans already established or who will establish themselves on the land.

2. Immediate establishment by the Department of Pensions and National Health of Employment and Relief Fund Bureaux in the largest centres of the country on behalf of veterans who are unemployed or ill or needy and who are not in receipt of a pension from the State.

That a copy of this resolution be forwarded to the proper authorities and to the newspapers for publication.

Adopted unanimously.

(Certified copy)

NATIONAL ASSOCIATION OF VETERANS OF  
THE PROVINCE OF QUEBEC.

Signed: WILFRID LAMOUREUX,  
*President.*

HENRI B. TROTTIER,  
*Secretary.*

MONTREAL, January 31, 1936.

*(Translation)*

True copy of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, P.Q., on Friday, February 28, 1936.

Unanimously Resolved:—

Should Canada's present economic and financial situation prevent the Dominion Government from giving effect to the bonus proposal included in the recommendations on behalf of veterans adopted on January 31, 1936, and submitted to the attention of Government by the National Association of Veterans, it is resolved unanimously that complementary to the said recommendations, the members of the National Association of Veterans respectfully ask the Dominion Parliament and Senate to adopt the "Lamoureux" bonus plan which follows, namely:—

(a) Authorization and legalization with respect to the holding of two annual lotteries the net proceeds of which will be applied to pay the interest and sinking fund charges of a special long term State loan and to be utilized to provide for the payment of a bonus to veterans in the form of miniature bonds in denominations of fifty dollars (\$50). The said lotteries shall cease upon the complete and final refund of the said loan.

(b) An approximate sum of five hundred thousand dollars could be distributed to the winners of each draw, divided as follows: 2 capital prizes of \$50,000 each in cash. Four separate cash prizes of \$25,000. Ten separate cash prizes of \$10,000. Twenty separate cash prizes of \$5,000. One hundred separate



cash prizes of \$1,000. (The price of each lottery ticket, the method of sale or distribution of such lottery tickets to the public—and the tenor of this whole paragraph are matters which our federal legislators can determine. The control and administration of such lotteries shall be under the strict jurisdiction of the Dominion Government. Those who violate the rules thereof shall incur severe penalties.)

(c) The beneficiaries of said bonus shall be: All those persons who honourably served in the various units of the Canadian or Allied forces during the Great War, who are British subjects since August 4, 1914, who were then domiciled in Canada, who are still domiciled therein and will be domiciled in the future. The financial classification or apportionment of the said bonus shall be effected as follows: All those who served in an actual theatre of war will each receive \$1,500. All those who served overseas outside of any actual war zone will each receive \$1,000. All those who served in Canada during one year or more will each receive \$500. All those who served in Canada a period of six months to one year will each receive \$250. All those who served in Canada from three to six months will each receive \$100. All those who served in Canada three months or less will each receive \$50. (All these grants will be in the form of miniature bonds each in a denomination of \$50.)

#### SYNOPSIS, MORALITY AND PLEA

"Subject to their being legalized, controlled and administered by the State, such national lotteries will be most popular with the Canadian people, to wit: the lotteries held in European countries, notably in France. They could be considered a tribute of gratitude from the Canadian nation to those who sacrificed themselves for her safety and happiness. They will also create a sure purchasing power and conduce to a more even financial distribution in our country. They will surely bring about a return of prosperity so earnestly desired. Such lotteries provide the federal authorities with a practical and economical solution to the everlasting problem involved in the civil re-establishment of veterans, with this particular advantage that the scheme will not cost one cent and will not burden the ordinary budget or public treasury. Our veterans have always shown themselves ready and willing to co-operate with our various governments to lift this fine Dominion of ours out of the present economic slough, but they also note that the body of veterans is not treated adequately, that it suffers unjustly at the present time because of extravagances for which it is not responsible, and that measures should be enacted to relieve such veterans and their dependents of their untold sufferings. Once more, what is required is not help for a few thousands of veterans but help for all those who served honourably during the Great War. The State should not allow a single veteran to suffer distress."

The National Association of Veterans has in its possession a file of irrefutable complaints emanating from veterans and their dependents proving that they lack all the necessities of life, particularly those residing in rural districts. Most of these rural administrations are bankrupt and unable to relieve them.

To those who claim or will claim that the holding of national lotteries for the benefit of war veterans is incompatible with our morals or is immoral, the members of the National Association of Veterans will give as examples Europe's legalized lotteries, the gigantic daily stock market speculations, horse races with pari-mutual betting, etc., actions which are permitted in Canada and elsewhere. Hence, if those who govern us, that is a majority of all political parties sitting in the House of Commons or the Senate takes the position that the country's finances preclude a solution of all problems connected with the welfare of Canadian returned men and that they refuse to authorize national lotteries as an alternative, our veterans will be justified in believing that the authorities disdain to give a serious thought to their just and legitimate grievances.

In order to commemorate two of the most brilliant exploits of the Canadian Expeditionary Forces during the World War, it would be desirable that the drawings of such national lotteries be held on the anniversaries of the battles of Courcellette and Vimy Ridge.

That a copy of this resolution be forwarded to the proper authorities and to the newspapers for publication.

Unanimously adopted.

(Certified copy.)

# NATIONAL ASSOCIATION OF VETERANS OF THE PROVINCE OF QUEBEC,

(Signed) WILFRID LAMOUREUX,  
*President,*

HENRI B. TROTTIER,  
*Secretary-Treasurer.*

MONTREAL, February 28, 1936.

(Translation)

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Friday, February 28th, 1936.

Resolved unanimously:

That the National Association of Veterans humbly prays the Federal Government to furnish them with further details concerning the motion submitted to Parliament by Mr. Oscar Boulanger, member for Bellechasse, and designed to amend the Civil Service Act of Canada in reference to future appointments of candidates in the outside service. Remark: the National Association of Veterans would like to know if the provisions of the said amendment would affect the preference granted to the veterans in regard to the said positions.

That copy of this resolution be forwarded to the competent authorities and to the newspapers for publication.

Unanimously adopted.

# THE NATIONAL ASSOCIATION OF VETERANS OF THE PROVINCE OF OF QUEBEC

(Sgd.) WILFRID LAMOUREUX,  
*President.*

HERMAS B. TROTTIER,  
*Secretary-Treasurer.*

(True copy)

MONTREAL, February 28th, 1936.

(Translation)

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Tuesday, March 31st, 1936.

Resolved unanimously:

That the National Association of Veterans humbly prays the Federal Parliament to amend Section 35, sub-section 9, of the Pensions Act, so that all former pensioners suffering from an invalidity exceeding 14 per cent who accepted a reduction in their degree of pension incapacity in view of obtaining final pay-

ment and who are presently or will be re-instated as pensioners, receive full payment, and that same be retroactive and in relation to the degree of invalidity immediately prior to the said reduction or final acceptance of payment. (This to redress an injustice committed).

That copy of the said resolution be forwarded to the competent authorities and to the newspapers for publication.

Adopted unanimously.

THE NATIONAL ASSOCIATION OF VETERANS OF THE PROVINCE OF  
OF QUEBEC

(Sgd.) WILFRID LAMOUREUX,  
*President.*

HERMAS B. TROTTIER,  
*Secretary-Treasurer.*

(True copy)

MONTREAL, March 31st, 1936.

(Translation)

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Tuesday, March 31st, 1936.

Moved by Mr. Armand Lozeau,  
Seconded by Mr. Joseph Pronovost,

That the members of the National Association of Veterans humbly prays the Canadian Parliament to enact a legislation to assist financially or otherwise in the repatriation of all Canadian veterans who live in the United States, who are not naturalized and who wish to come back to Canada with their dependents or not to reside here permanently.

That copy of this resolution be forwarded to the competent authorities and to the newspapers for publication.

Adopted unanimously.

THE NATIONAL ASSOCIATION OF VETERANS

(Sgd.) WILFRID LAMOUREUX,  
*President.*

H. B. TROTTIER,  
*Secretary-Treasurer.*

(True copy)

MONTREAL, March 31st, 1936.

(Translation)

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Tuesday, March 31st, 1936.

Resolved unanimously:—

That the National Association of Veterans respectfully submits to the Parliamentary Committee on Pensions and general matters pertaining to Veterans their reiteration concerning the recommendations as to the welfare of the veterans and their dependents, which were recently adopted, especially the recommendation pertaining to the granting of a bonus to veterans by way



of national lotteries and further that the Association urges all Canadian veterans to give their earnest support to the above measures by writing either to their members of Parliament respectively or to the said Parliamentary Committee on Pensions and general matters pertaining to Veterans at Ottawa, Ont.

That copy of this resolution be forwarded to the competent authorities and to the newspapers for publication.

Adopted unanimously.

THE NATIONAL ASSOCIATION OF VETERANS OF  
THE PROVINCE OF QUEBEC,

(Sgd.) WILFRID LAMOUREUX,  
*President.*

HERMAS B. TROTTIER,  
*Secretary-Treasurer.*

(True Copy)

MONTREAL, March 31st, 1936.

*(Translation)*

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Tuesday, March 31st, 1936.

Moved by Mr. George Rollin,

Seconded by Mr. Ernest Beaudoin.

That the National Association of Veterans humbly prays the Dominion Government to give the necessary instructions to exempt all unemployed Canadian Veterans (married or single) from the concentration camps or camps for the unemployed, and that financial assistance be granted to them by the Department of Pensions and National Health.

That copy of this resolution be forwarded to the competent authorities and to the newspapers for publication.

Adopted unanimously.

THE NATIONAL ASSOCIATION OF VETERANS OF  
THE PROVINCE OF QUEBEC,

(Sgd.) WILFRID LAMOUREUX,  
*President.*

HERMAS B. TROTTIER,  
*Secretary-Treasurer.*

(True Copy)

MONTREAL, March 31st, 1936.

*(Translation)*

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Friday, April 24th, 1936.

Resolved unanimously:—

That the National Association of Veterans humbly prays the Dominion Parliament to take the proper steps to afford the widows or dependents of temporary military pensioners, upon the decease of the latter, the same treatment as that afforded the widows and dependents of the deceased permanent military pensioners.

That copy of this resolution be forwarded to the competent authorities and to the newspapers for publication.

Adopted unanimously.

THE NATIONAL ASSOCIATION OF VETERANS OF  
THE PROVINCE OF QUEBEC,

(Sgd.) WILFRID LAMOUREUX,  
*President.*

HERMAS B. TROTTIER,  
*Secretary-Treasurer.*

(True Copy)

MONTREAL, April 24th, 1936.

*(Translation)*

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Friday, April 24th, 1936.

Resolved unanimously:

That the National Association of Veterans humbly prays the Board of Pensions Commissions of Canada to forward in the future Form 102 in the French language only, as well as bilingual cheques to French-Canadian pensioners.

Adopted unanimously.

THE NATIONAL ASSOCIATION OF VETERANS OF  
THE PROVINCE OF QUEBEC.

(Sgd.) WILFRID LAMOUREUX,  
*President.*

HERMAS B. TROTTIER,  
*Secretary-Treasurer.*

(True copy)

MONTREAL, April 24th, 1936.

*(Translation)*

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Friday, April 24th, 1936.

Resolved unanimously:

That the National Association of Veterans humbly prays the Dominion Parliament to amend the Pensions Act so that all pensioners who have married or had children since May 1st, 1933, be granted for their wives or their dependents the same treatment as that granted to the pensioners who married prior to the said date, and further that same be retroactive. A pension allowance should also be granted to pensioners who will marry in the future up to a date to be determined by Parliament.

That copy of this Resolution be forwarded to the competent authorities and to the newspapers for publication.

Adopted unanimously.

THE NATIONAL ASSOCIATION OF VETERANS OF  
THE PROVINCE OF QUEBEC.

(Sgd.) WILFRID LAMOUREUX,  
*President.*

HERMAS B. TROTTIER,  
*Secretary-Treasurer.*

(True copy)

MONTREAL, April 24th, 1936.

*(Translation)*

TRUE COPY of the Minutes of the General Meeting of the National Association of Veterans held at Montreal, Que., on Friday, April 24th, 1936.

Resolved unanimously:

That the National Association of Veterans humbly prays the Dominion Parliament to take the necessary steps to grant a Government life annuity to all Canadian veterans who won the Military Medal or other decorations for conspicuous service during the Great War.

That copy of this Resolution be forwarded to the competent authorities and to the newspapers for publication.

Adopted unanimously.

THE NATIONAL ASSOCIATION OF VETERANS OF  
THE PROVINCE OF QUEBEC.

(Sgd.) WILFRID LAMOUREUX,  
*President.*

HERMAS B. TROTTIER,  
*Secretary-Treasurer.*

(True copy)

MONTREAL, April 24th, 1936.



## APPENDIX "B"

## UNEMPLOYED EX-SERVICE MEN'S ASSOCIATION

## A CHARTERED ORGANIZATION

OFFICES AND SOCIAL CLUB, 127 EIGHTH AVENUE EAST

CALGARY, ALBERTA, April 6th, 1936.

Mr. J. T. THORSON, M.P. (Chairman)  
of Special Parliamentary Committee,  
to consider such matters as Pensions and  
Returned Soldiers' Problems, as Referred to  
on page 1189, Hansard, 1936.

GENTLEMEN of the COMMITTEE,—We, the undersigned resolution committee of the above organization, do respectfully submit the following suggestions for your consideration, in matters to be dealt by you, pertaining to Soldiers' Problems and Pensions.

(1) In so far as a man, who may be claiming a disability pension, having proven service in a war area; we submit, that in the hearing of such a man's claim, that the question of his disability, having originated from a pre-enlistment condition or from a congenital defect, should be entirely eliminated from any evidence that may be submitted against the man's claim.

(2) In regards to unemployment relief that is issued by the D.P.N.H. to small pensioners, we suggest that at least \$15 per month of their pension be exempt from deduction in regard to income qualifications of D.P.N.H. relief. We make this suggestion on the grounds that a large number of these small pensioners have a small rated disability pension, with other high rated disabilities, which are declared not attributable to service. In consequence of this state of affairs, these men find themselves condemned to subsist on the meagre relief that is issued to able-bodied residents. Such relief allowance is totally inadequate to maintain a body of men, who have already been recognized as handicapped by physically and mental disability.

(3) That we suggest the discretionary power of the District Administrator of D.P.N.H. relief be entirely eliminated in regards to the amount of relief allowance issued on the following grounds, that it seems to us absurd that in so far as these small pensioners to be eligible for D.P.N.H. relief must make a sworn declaration that they are in destitute circumstances. Therefore, we consider if two men are in destitute circumstances, it would take the same relief allowance to relieve each man's destitution. Abolition of such discretionary power would eliminate any discrimination against the veteran in the future.

(4) That all veterans of the Overseas Military Forces of Canada, who have seen service in an actual theatre of war be given the right to participate in any project or public works program which may be put into operation by the Dominion Government, and that their applications be given priority rights, notwithstanding any clause that may be in the act governing such projects or public works program.

(5) The following figures, taken from the registration of Unemployed Ex-Service Men, that was submitted by the Canadian Legion to the Hyndman Commission, and accepted as evidence by that committee, show that actual war veterans who saw service in an actual theatre of war are predominately in the majority of such registration in spite of the fact more than 48 per cent of the total Canadian enlistment did not serve in a theatre of war.

Sixty-four per cent of the ex-service men registered as on relief were veterans who had seen service in France. The age of these men would run from 35 to 60 years.

We find according to statistics published on page 1706 Hansard, 1936, that there are 251,681 males on relief between the ages of 16 years and over. Ten per cent of this number are between the age of 35 and 60 years. This percentage is in striking contrast with the percentage of the veterans of France shown on relief.

We find on page 1718 Hansard, 1936, that for the Province of Alberta, 15.4 per cent of all males on relief over 16 years of age have been on relief 3 years and up.

While the ex-service men's unemployment registration shows that 55 per cent of the veterans have been on relief from 4 years and up.

(6) We suggest in so far as actual war veterans are concerned who are unemployed that they draw their unemployment assistance allowance from the D.P.N.H. and the basic amount of relief be set to adequately maintain them and their dependents at a decent standard of living as laid down by the Department of Labour, and not to be subjected to various fluctuations which generally occur in the issuing of provincial or municipal relief.

(7) In so far as Imperial Veterans are concerned, who were domiciled in Canada prior to January 1st, 1935; and who has seen service in an actual theatre of war, between 1914 and 1918, we suggest that they be given the same consideration as the Canadian Veteran, regarding employment or any unemployment assistance. Due to the fact these veterans were induced to emigrate to this Country, and thereby sacrificed the benefits of the social legislation of the old country; and that the Physical standards of our immigration laws were lowered to admit them, we think the Ottawa Government should be responsible for their welfare.

(8) We find upon investigating that a large amount of ex-service men, who are prematurely aged and some over the age of 60 years are domiciled in various provincial hostels. We believe that it would be in the best interest of all concerned, in so far as ex-service men who served in the Canadian or Imperial Forces, regardless of where they served; that they be taken on the strength of the D.P.N.H. as class 4 men. Due to the fact that we have not in Canada established any Old Soldiers Homes; we believe such a solution of these men's problems would be acceptable by them.

(9) We suggest in regards to the proposed amendment of the War Veteran's Allowance Act, that the age clause be reduced from 60 to 50 years; in support of this suggestion, their high death rate as shown by W.V.A. recipients, who has died under the age of 60 years, between Sept. 1st, 1930; and December 31st, 1934. This period of time was the same as the duration of the war 52 months. The death rate of Battle casualties during the 52 months of warfare was 123 per 1,000 while the death rate of W.V.A. recipients over a similar period of 52 months shows a rate of 189 per 1,000.

We find by the annual report of the D.P.N.H. year ending March 31st, 1932; that there were 1,471 W.V.A. recipients under the age of 60 years on March 31st, 1933; there were 1,803 under the age of 60, on March 31st, 1934, there were 1,793 under the age of 60. On March 31st, 1935, there were 2,125 under the age of 60.

The very fact the Commissioners of the Returned Soldiers Insurance, has refused to issue any more policies, since August 31st, 1933, should be as further proof of the high death rate amongst returned men, under the age of 60 years.

The Commissioners could supply authentic information as to the service of their policy holders, whose policies has been cancelled by death. We believe that such figures would show predominately the men of france has died to a greater proportion than policy holders that did not serve in an actual theatre of war.

Trusting these suggestions will receive your consideration

We remain

Yours Respectfully

H. SAGE

G. HENDERSON

G. BEETE.



## APPENDICE "C"

## DEPARTMENT OF PENSIONS AND NATIONAL HEALTH

OTTAWA, ONT., Jan. 26th, 1935.

*Memorandum The Honourable The Minister*

In view of the enquiry of Capt. Mackenzie as to whether representations have been received from the former members of the Inland Water Transport, Royal Engineers, with regard to pension rates, it is probable that the matter may be referred to under Pensions Estimates or on some other occasions, in the House of Commons.

On the 15th June, 1916, a despatch was prepared by the Army Council in England for the consideration of Mr. Secretary Bonar Law, suggesting that if difficulty was experienced in getting sufficient numbers of seamen and watermen to man the craft belonging to the Inland Water Transport, Royal Engineers, suitable men might be enlisted from the lakes and rivers in Canada. It was stated that it was not essential that they should be up to the usual Army standards and they could be accepted above the military age up to the age of 56, so that the proposal would not compete with the arrangements of the Dominion Government for recruiting for the Canadian contingents.

The following were the conditions:—

The men would be enlisted for service in the Royal Engineers (Inlands Water Transport Section) for the period of the war at British rates of pay (Royal Engineers) and separation allowance; and in the event of the proposal being approved, an officer of the Royal Engineers will be sent to Canada to select men with suitable qualifications. He will also, in consultation with the Ministry of Militia, make arrangement for the medical examination and attestation of the men in Canada and for their passage to England, the cost of which will be borne by the Imperial Government. Free return passages to Canada, together with railway fare to the place of enlistment, will be given to these men after the War.

On submission of the foregoing by Mr. Bonar Law to the Governor-General, it was agreed to concur in this arrangement.

In a letter addressed to the Minister of Militia by Mr. Chas. R. Harrison dated the 14th May, 1918, the following appears:—

I have a complaint from several of the boys from my district who went over with this battalion who advise that on their arrival at England they are a branch of the English army, and consequently although the pay and separation allowance are on a Canadian scale, the pensions are on an English scale. If any of them get totally disabled they only receive the English scale of pension, which is between five and six dollars per week. The pension for Canadian forces is, I understand, about \$12 per week.

You will readily understand the situation these men are placed in. They enlisted in Canada as skilled tradesmen with the sanction of the Canadian government, and after the war is over they will no doubt be returned to Canada. They wore the Canadian badges on their shoulder straps and it just amounts to this, if any of the men are totally disabled

in this war and return to Canada, as no doubt our Canadians will, they would be unable to live on the English scale of pension.

Would you kindly look into this as it appears to be only fair that these boys should at least be entitled to Canadian pension.

The matter was submitted to Lt. Col. W. O. Owen, R. E., Commanding the I. W. & D., R. E. in Canada, who replied in part as follows:—

With regard to the statement made by Mr. Harrison that "Canadian badges and shoulder straps" are worn by Canadians who join this branch of the service, this is not so, the men wear the badge of the Imperial Royal Engineers and the shoulder numerals of that Corps, and these are issued to the men immediately on arrival at our depot in Montreal and are actually worn by them prior to leaving Canada.

All men enlisted in this branch are made fully conversant as to the conditions of service, pay, separation allowance, scale of pensions, etc., prior to their enlistment. These conditions are laid down in I.W. & D. Form 33 (copy attached) the contents of which are made known to all recruits prior to their attestation. As you are aware, all recruits enlisted in Canada and the United States for this branch of the service are sent through to the I.W. & D. Headquarters' Depot in Montreal and, in order to ensue that the men may be under no misapprehension as to the conditions under which they are to serve, each recruit is paraded on his arrival in Montreal when the conditions are repeated to him by a responsible officer, and, in the event of a recruit having been misinformed, or has misunderstood the conditions at the branch recruiting office, he is given the option of continuing in the service under the conditions which are laid down to him or of being returned to his home. In this way it is practically impossible for a man to proceed overseas under any misapprehension as to the conditions of service in this corps.

The number of men enlisted was 3,971, of whom 3,445 were sent overseas. These latter consisted of troop transport 1,306, horse transport as horse attendants, 2,108 and crews of craft 121.

The number of men who enlisted in the Imperial Forces from Canada is estimated to have been about 50,000, a large proportion of whom served in the Royal Air Force. The association representing those who served in the Inland Water Transport have advanced no valid reason why at this late date, the small number who enlisted in that branch of the Imperial Service should be given preferred treatment over all residents of Canada who served in the Imperial Forces.

Respectfully submitted,

E. H. SCAMMELL,

*Secretary.*

EHS/MP

## APPENDIX D

SESSIONAL PAPER No. 53

Monday, Feb. 10, 1936

## STATEMENT OF RETURNED SOLDIERS' INSURANCE

DEPARTMENT OF INSURANCE,

OTTAWA, January 22, 1936.

To the Honourable C. A. DUNNING,  
Minister of Finance,  
Ottawa, Canada.

Dear Sir,—In pursuance of Section 19(2) of the Returned Soldiers' Insurance Act, I have the honour to submit the following statement for the year ending March 31st, 1935.

## I. STATEMENT OF RETURNED SOLDIERS' INSURANCE ACCOUNT

	\$	cts.		\$	cts.
Amount of Fund 31/3/34.....	12,313,278	74	Payments at Death.....	202,971	00
Premium Income.....	1,498,456	64	Annuity Payments.....	249,127	04
Interest Added.....	501,806	15	Surrender Values.....	323,632	34
Interest Earned.....	1,723	20	Premiums Refunded (section 10)...	46,096	97
Recovered Death Benefit.....	2,177	27	Disability Benefit Payments.....	12,200	36
Recovered Disability Benefit.....	2,053	97	Excess Premiums Returned.....	10,213	62
Recovered Annuity.....	11,721	69			
Recovered Surrender Values.....	908	00	Total Disbursements.....	844,241	33
			Net Balance.....	13,487,884	33
Total.....	14,332,125	66	Total.....	14,332,125	66

## II. EXHIBIT OF POLICIES

## (A) ORIGINAL CONTRACTS

	Number	Amount
		\$ cts.
Description of Item:—		
In Force 31/3/34.....	25,668	55,890,679 45
Issued during Fiscal Year.....	4	8,500 00
Reinstated during Fiscal Year.....	1,959	4,741,422 89
Disability Additions.....	4	8,554 28
Total.....	27,635	60,649,156 62
Deductions:—		
By Reduction.....		7,031 45
By Death.....	238	529,662 33
By Cessation of Premiums.....	2,199	5,305,888 84
By Disability.....	27	67,000 00
By Surrender for Cash.....	689	1,633,108 82
By Surrender for Paid-up Insurance.....	33	104,567 90
Total.....	3,186	7,647,259 34
In Force 31/3/35.....	24,449	53,001,897 28



II. EXHIBIT OF POLICIES—*Concluded*

## (B) REDUCED PAID-UP INSURANCE

	Number	Amount
		\$ cts.
Description of Item:—		
In Force 31/3/34.....	366	326,509 00
Issued During Fiscal Year.....	86	116,266 50
Total.....	452	442,775 50
Deductions:—		
Terminated by Reduction.....		61 30
Terminated by Death.....	4	3,483 00
Terminated by Surrender.....	18	21,205 00
Total Terminated.....	22	24,749 30
In Force 31/3/35.....	430	418,026 20

## (C) EXTENDED TERM INSURANCE

Description of Item:—		
In Force 31/3/34.....	2,134	4,724,308 71
Issued During Fiscal Year.....	588	1,323,711 05
Total.....	2,722	6,048,019 76
Deductions:—		
By Reductions.....		796 83
By Reduced Paid-up.....	53	159,000 00
By Expiry.....	155	346,841 37
By Disability.....	6	5,270 87
By Surrender.....	137	297,011 62
By Death.....	15	39,500 00
By Reinstatement.....	392	870,000 00
Total.....	758	1,718,420 69
In Force 31/3/35.....	1,964	4,329,599 07

## (D) DISABILITY

Description of Item:—		
In Force 31/3/34.....	72	127,511 94
Occurred During Fiscal Year.....	33	72,270 87
Total.....	105	199,782 81
Deductions:—		
Decrease in Face Value.....		11,917 50
By Death.....	11	25,400 67
Cancelled by Reinstatement.....	4	8,404 34
Total.....	15	45,722 51
In Force 31/3/35.....	90	154,060 30

## III. SUMMARY OF BUSINESS IN FORCE

(A) Original Contracts.....	24,449	53,001,897 28
(B) Reduced Paid-up Insurance.....	430	418,026 20
(C) Extended Term Insurance.....	1,964	4,329,599 07
(D) Disability.....	90	154,060 30
Total in Force.....	29,933	57,903,582 85

IV. STATEMENT OF ORIGINAL POLICIES IN FORCE AS AT MARCH 31, 1935, GROUPED  
AS AT AGE ATTAINED NEAREST YEAR

Age Group	Number of Policies	Amount Assured	Yearly Premium
		\$ cts.	\$ cts.
30-34.....	52	129,500 00	2,380 32
35-39.....	4,142	10,292,557 48	221,778 84
40-44.....	6,705	16,178,636 19	384,389 04
45-49.....	5,479	12,156,728 31	321,068 88
50-54.....	3,888	7,397,684 20	220,727 04
55-59.....	2,343	3,990,301 32	142,608 96
60-64.....	1,205	1,912,976 80	79,203 84
65-69.....	492	739,064 57	34,868 28
70-74.....	128	191,948 41	11,302 68
75-79.....	15	12,500 00	987 00
	24,449	53,001,897 28	1,419,314 88

The above statements and exhibits appear to give all the information in respect of the operations of the Act during the year, which is likely to be either interesting or useful.

I have the honour to be

Sir,

Your obedient Servant,

(Sgd.) G. D. FINLAYSON,  
*Superintendent of Insurance.*

OBSERVATIONS AND RECOMMENDATIONS CONCERNING THE  
STATUS AND WELFARE OF IMPERIAL EX-SERVICE MEN

SUBMITTED BY THE IMPERIAL VETERANS' CORPS (IN CANADA)

British Columbia—Provincial Command

423 Hamilton Street, Vancouver, B.C.

CLASSIFICATION

For classification purposes we divide Ex-Imperials into four categories.

1. Pre-War meaning those Imperial Ex-Service Men who were resident in Canada immediately prior to August 4, 1914, and who are Pensioners, or who have received Final Award and who are entitled to consideration under the War Veterans' Allowance Act.
2. Ex-Imperials who came to Canada prior to December 1, 1924, and are Pensioners or Final Award and who are entitled to Veterans' Relief but not War Veterans' Allowance.
3. Ex-Imperials who came to Canada after December 1, 1924, and are Pensioners or Final Award and are not entitled to category 1 or 2 privileges.
4. Ex-Imperials no matter when they came to Canada and are Non-Pensioners and not entitled to category 1 or 2 privileges.

## DIFFERENTIATION—EXAMPLES OF

*If Imperial Service*—restricted to one pair of Orthopedic shoes, etc., every two years.

*If Canadian Service*—replacements as necessary.

*If Imperial Pension*—Negotiable in Canada according to Rate of Exchange. At present satisfactory but subject to variation as in the past—the depreciation at one time being a very serious matter.

*If Imperial Pensioner*—cannot enter Military Hospital even as an Emergency case unless permission received from Imperial Representative, British Minister of Pensions at Ottawa, and cannot enter at all if for non-war disability.

*If Canadian Pensioner*—can enter any time for treatment, for war disability or non-war disability in indigent cases.

*If Imperial Final-Award or non Pensioner*—must obtain treatment from private practitioner or non-military Hospital, depriving the Ex-Imperial of War Service Medical History consideration, creating hardship, depriving him of a continuous Medical History on Records, etc., and in many cases causing a deprivation of or delayed treatment by reason of overcrowded non-military Hospital conveniences on occasions.

*Recurrent Malaria and other Tropical Complaints*—Full recognition apparently not given to these cases. Necessary Medical Officer with experience of these cases.

*War Neurosis*—Insufficient recognition as regards Ex-Imperials. Increasing with Age and Depression conditions. Understand receiving greater consideration in England.

*Medical History Sheets*—In so many cases incomplete for various reasons and in the case of Ex-Imperials in the West here, upon application for treatment or a Medical Board, permission has to be obtained from the British Minister of Pensions at Ottawa, where all records and Medical History Sheets are kept and the only matter permitted to be taken into account by the Examining Medical Officer is the actual disability for which the individual was pensioned originally, and neither the individual nor the Examining M.O. sees the Medical History Sheet, thus preventing an equitable Medical examination or taking into account later or possible contributing factors in the applicants' conditions.

In our opinion extremely unfair and unjust and in contradistinction to the Canadian practice where when necessary a full expose of documents is in order. The foregoing is why it is strongly felt that in justice to the many Ex-Imperials in the West that an Imperial Representative, an Imperial Advocate and an Imperial (R.A.M.C.) Medical Officer should be stationed in Vancouver with the necessary authority.

*Canadian Canteen Fund*—Ex-Imperials have no privileges under this, nor do they ask any. This is mentioned to indicate a further disadvantage under which the indigent Ex-Imperial labours. There was an Imperial Canteen Fund Grant, which was used up years ago, and as far as B.C. was concerned it had to apply for consideration to Calgary, Alberta, which was the nearest point, with it is understood unsatisfactory results, by reason particularly of distance. The Canadian Canteen Fund has an Official in Vancouver, B.C.

## DESIRES AND RECOMMENDATIONS

*Status*—1. For Ex-Imperials—Pre-War residence—Full Canadian status in every respect, as this class of Veteran did not count the cost to themselves nor



consider at the time whose after responsibility they were to be, being anxious only to forward the common cause. Becoming again Canadian citizens they are further deprived of benefits and privileges obtainable in the Old Country, and are particularly affected in the matter of Hospitalisation as is enjoyed by the indigent Canadian pensioner receiving non-war disability treatment, and it is felt that the position is inequitable.

2. For Ex-Imperials—Post War residents in Canada—as full Canadian status as possible including Medical Boards, Hospitalisation, etc., many of this class migrating to Canada with their Pensions—Gratuities, etc., in the belief that they would receive full Canadian status and privileges.

*Representative*—Appointment of an Imperial Representative in the West, with the same arbitrary powers and complete Medical records as is enjoyed by the East at Ottawa.

An Imperial advocate to assist with cases.

An Imperial Medical Officer (R.A.M.C.) on all Medical Boards dealing with Imperials. One with familiarity with War and Climatic conditions on the various fronts of Imperial Service.

*Regulations*—Thorough overhauling and co-ordination of regulations, efforts and responsibility of the Dominion and Imperial Governments as they affect Ex-Imperials.

*Empire*—All Veterans of the British Empire resident in Canada to have full access to Canadian status and privileges.

*Immigration*—Abolition or modification respecting Imperial applying for Relief within five years and being deported.

*War Zone*—To consider War Service in the British Isles, as War Zone for Imperials the same as Canadians.

*Repatriation*—Of Ex-Imperials so desiring who could re-establish themselves in the Old Country and become useful citizens by reason of proficiency at some avocation unavailable in Canada, in the West particularly.

Suggest as more economical for Canadian Government.

#### OBSERVATIONS.

It is only the experience of Veterans' organization work that can indicate the extent of the deterioration and disappointment of so many Veterans—particularly Ex-Imperials and the necessity for a large measure of sympathetic consideration.

Subversive Doctrines being so hard at work amongst the Veterans and their families it is felt that in justice to the Veteran, for the few years most of them have remaining to them, that the fullest measure of assistance and protection be afforded to them, so that their final passing may not be in a spirit of neglect and disappointment in, but one of respect for, constitutional authority, and pride in their service and sacrifice.

It is understood that further Immigration Schemes are in immediate prospect, but it is hoped that these will not be undertaken until such time as satisfactory plans have been evolved for the equitable welfare of the Veteran.

It is sincerely hoped that the earliest possible favourable action and results will be forthcoming from this Session of Parliament and that the Imperial Ex-Service Men will have cause to be appreciative.

## APPENDIX "F"

WHEREAS immediately following the Great War the Dominion Government instituted a form of Life Insurance available to returned soldiers whereunder policies were issued to returned men who desired them, the Dominion Government being the insurer;

AND WHEREAS the purpose of such Insurance was primarily to protect the wives and dependents of such returned men in the event of their death in the years following the War, principally in the years of rehabilitation when such returned men were settling down again into civilian life;

AND WHEREAS in the majority of cases such children who were mere infants at the end of the War, have now grown up into an independent or semi-independent state of life where such protection is no longer urgently required, and in like manner the premiums on most of these policies have become either fully paid up or practically so;

AND WHEREAS the premiums paid on such policies of Insurance were very little lower than those charged by straight line Companies the difference being accounted for by the fact that the Dominion Government did not maintain branch offices, nor did the Government have a staff of agents such as are generally maintained by straight line Companies;

AND WHEREAS in the case of policies where the insurer is a straight line Company, the policy holder is entitled to borrow from the Company a certain amount determined usually by the amount paid in, yet such privilege is not allowed to returned men who are policy holders of the Dominion Government Insurance;

THEREFORE BE IT RESOLVED that this branch of the Canadian Legion, B.E. S.L., respectfully and strongly urge on the Dominion Government that appropriate regulations be effected whereby permission may be granted to returned men who are holders of such policies to borrow on the same from the Government in a manner similar to that which is permitted by ordinary Insurance Companies.

Interest to be charged on any such loan at a rate not to exceed 4 per cent per annum;

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to:—

- (1) The Provincial Command (P.E.I.) Branches, Canadian Legion, B.E. S.L.
- (2) Hon. C. A. Dunning, M.P., House of Commons, Ottawa, Ontario.
- (3) Peter Sinclair, M.P., House of Commons, Ottawa, Ontario.
- (4) Dr. T. V. Grant, M.P., House of Commons, Ottawa, Ontario.
- (5) Alfred E. McLean, M.P., House of Commons, Ottawa, Ontario.

for their information and necessary action.

## APPENDIX "G"

## HOUSE OF COMMONS

## CANADA

OTTAWA, May 19, 1936.

The following submissions have been made for consideration of the committee. I desire that these submissions be received and referred to the subcommittee dealing with same:—

G. D. Allen, Toronto—Pensions.

H. B. Trottier, Secretary, National Association of Veterans—Resolutions in Quebec.

Ex-Service men Committee, Vancouver—Ex-Servicemen's Minimum Demands.

Unemployed Ex-Service Men's Association, Calgary—Amendments to Pension Act.

J. M. Heselton, Vancouver—War Veterans' Allowance.

Disabled Veterans' Association, Vancouver—The Soldier Problem.

Unemployed Ex-Service Men's Association—Veterans' Problems.

H. W. Collins, Kamloops—Hospitalization.

Beswick, W., Wilson Creek, B.C.—Hospitalization.

Mrs. S. Wilson, Vancouver—Pension Allowance.

Wm. Fulton, Toronto—Resolution.

C.C.F. Club, Verdun, Que.—Resolutions.

Disabled Veterans' Association of Saskatchewan, Regina—Resolutions.

United Veterans of Canada, Vancouver, B.C.—Resolutions.

Single Men's Association, Fort William, Ont.—Resolution.

Ex-Service Men of Edmonton, Alta.—Pension and War Veterans' Allowance Problems.

Mrs. Mary E. Telford, Gibson's Landing, B.C.—War Veterans' Allowance Problems.



## APPENDIX H

1361 HAYWARD AVE., WEST VANCOUVER, B.C.

April 6th, 1936.

Mr. J. T. THORSON, M.P.  
Chairman,  
Committee on Veterans' Affairs.

*Speaking For a Silent Group*

DEAR SIR,—Across the Dominion, in every town and city, there are veterans in dire need economically, who belong to no service organization and whose voice is seldom heard in complaint. They are men to whom the thought of relief is abhorrent, the type of men who commit suicide rather than face what to them is the disgrace of asking for charity.

The real crisis for this type of veteran is just now coming to a head. For five or six years during depression he has been cashing in on his insurance, selling his assets, eking out an existence through the earnings of his adolescent children, or his boys just starting out on their own. Jobless, he finds himself more and more a drag on society—so he jumps off a dock! Twenty years ago that same man, as a good citizen, was risking his life that Canada might continue a nation. Now, to-day, he wishes his had been the supreme sacrifice, for in that event his wife and his growing boys would have suffered little of economic stress. His boys would have had a memory of a father who had died gloriously—instead, their memories will likely be of a father who lives ingloriously dependent upon a reluctant and disdaining charity—an object of pity!

This type of veteran is too proud to beg. If he is bitter; if he laughs derisively as he remembers Prime Minister Borden's glowing promises, he makes no public complaint.

Many of these men are of the executive type, business and semi-professional men. They sit hopefully for Civil Service examinations, trying to look unperturbed in the midst of a hundred or so boys and girls who are also taking the exams. In their hearts they know that they can more than qualify for the jobs, but it is the younger who can answer the cross-word puzzle and the intelligence test, that makes up the average Civil Service exam. who wins.

I contend that these examinations are unfair to returned men. Look over some of the papers. With hundreds and possibly even thousands looking to the government for work, these exams must take on the complexion of an elimination contest. Shorn of the mazes and catch puzzles, the real work paper is reasonable. The veteran has as much chance on these exams as the snowball which landed in hell.

The returned soldiers' preference in the Civil Service is a farce. It does not operate until after the applicant has first passed these so-called examinations. If the government means anything at all by its preference, there are hundreds of positions in the service which could be set aside for returned men alone.

The government should open in every city a Veterans' Information Service, presided over by a man or men with broad sympathetic understanding of the veteran's problem. Such a service would not cover information of pensions, but would be a clearing house for employment and problems of hardship and destitution. Under present conditions the veteran in distress goes as a common

suppliant to his city relief office or to the local branch of his Legion. There are hundreds of men who won't go to either place, and suffer in silence. The type of man in charge of these service stations should be capable of addressing organizations on veterans' problems, and otherwise tactful and diplomatic in his contact with the public. The service should be without formality, but be a personal contact for the veteran.

In other words, if in addition to bearing the brunt of war distress the veteran and his family must bear present economic distress, at least he is entitled to be set apart from the mob and given the dignity of his soldier rank. It must be a tremendously humiliating situation for an ex-service man with pride of citizenship to have to appeal for cast-off clothing and for a bite to eat, and yet in the local press we see at regular intervals an appeal by the Returned Soldiers' Club for cast-off clothing and furniture for destitute vets.

The Canadian veteran deserves better by his country. He has held himself aloof from all that is not good citizenship. He stands for law and order, and in time of sudden trouble he would be the first to offer his service and experience. Canada can be wonderfully proud of her returned men—the very backbone of the nation. Monuments and scrolls will honor their memory. Books will be written of their works. Posterity will glory in their achievements.

To-day it is—misery and disillusion and bitter thoughts—no employment, no boots for the kiddies, no one who cares a damn—but on Armistice Day the old vet polishes his buttons, and proudly wears his medals—and marches on an empty belly.

So Canada, get behind every veteran who needs it. Give him at least a show of recognition and encouragement. He wants work not charity.

Sincerely,

C. J. BRODERICK.







SESSION 1936

HOUSE OF COMMONS

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SPECIAL COMMITTEE

ON

# PENSIONS AND RETURNED SOLDIERS' PROBLEMS

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 21

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WEDNESDAY, MAY 20, 1936

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## WITNESSES:

- Mr. J. White, Insurance Branch, Department of Pensions and National Health.
- Mr. G. D. Finlayson, Superintendent of Insurance, Insurance Department.
- Mr. W. S. Woods, Chairman, War Veterans Allowance Committee.

OTTAWA

J. O. PATENAUDE, I.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936





## MINUTES OF PROCEEDINGS

WEDNESDAY, May 20, 1936.

4.00 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4 o'clock p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, MacNeil, Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch and Reid—11.

The Chairman read a note from Mr. Young regarding a submission in behalf of the Unemployed Unaffiliated Veterans of Canada and stated that the brief would be printed as Appendix "A" to to-day's evidence.

Mr. MacNeil submitted a list of questions relating to P.C. 91, which he wished to have incorporated in the evidence with the answers to them. The Chairman agreed to provide the answers, if possible, and have them included in the record later.

Mr. Joseph White, Insurance Branch, Department of Pensions and National Health, was called, examined and retired.

Mr. G. D. Finlayson, Superintendent of Insurance, Insurance Department, was called, examined and retired.

Mr. W. S. Woods, Chairman of the War Veterans' Allowance Committee, was recalled, examined and retired.

The Committee adjourned at 5.50 o'clock p.m., to meet again Tuesday, May 26, at 4 o'clock p.m.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

May 20, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at four o'clock, Hon. C. G. Power, the Chairman, presided.

The CHAIRMAN: I have a note here from Mr. Young of the Unemployed Unaffiliated Veterans of Canada who begs this committee to bring once more to light the briefs and recommendations as presented to the different committees by himself and associates throughout the Dominion for the past sixteen years. I have the brief from Mr. Young and I shall file it as an appendix to to-day's proceedings.

We shall now call on Mr. White of the Veterans' Insurance. Will you step forward Mr. White?

Mr. MACNEIL: Before you go on with Mr. White would you agree to P.C. No. 91 being brought under review of this committee? In order to expedite the business of the committee it is unnecessary to examine witnesses in regard to this order in council. I should like to submit a number of questions to be incorporated in the record and at the same time answers to these questions might also be incorporated in the record. I think that would clear up the various points under discussion.

The CHAIRMAN: All right.

JOSEPH WHITE called.

*By Mr. MacNeil:*

Q. You are no doubt familiar with the statement that was placed on the record and as tabled by the Minister of Finance?—A. I have that here.

Q. Would you explain the present status of the fund, whether or not any substantial surplus exists in the fund, and whether or not that surplus is greater or less than anticipated?—A. The balance of cash in the fund at the present time is \$13,487,884.33.

*By Sir Eugène Fiset:*

Q. Is that placed in trust?—A. It is really a bookkeeping fund with the Department of Finance to the credit of returned soldiers' insurance.

Q. It goes to the consolidated revenue?—A. Yes.

Q. Is there interest on it?—A. Yes, 4 per cent on it.

*By Mr. MacNeil:*

Q. Is that greater or less than anticipated?—A. That is quite a difficult matter to answer. When returned soldiers' insurance was first brought into force in 1920, of course, we had estimated deficits. According to the statement of the actuary of the department of insurance there were deficits estimated right through to 1931. That is an ultimate deficit.

*By Mr. Cameron:*

Q. You mean actual deficits in any year?—A. No, we always had a balance on hand. We have never had a vote from parliament with regard to returned soldiers' insurance. That is deficits that would occur when all the claims were cleared up.



*By Mr. Reid:*

Q. How is the fund now? I was not here at the commencement of to-day's proceedings?—A. \$13,487,884.33.

*By Mr. Cameron:*

Q. Have you any actuarial statement as to whether that fund is on a proper actuarial basis?—A. The actuarial statement for March, 1935, shows a surplus of \$1,102,000.

Q. Over and above what is necessary to put it on a firm actuarial basis?—A. Absolutely.

*By Mr. MacNeil:*

Q. Have you any comment to offer with regard to the mortality rate of returned soldiers?—A. The latest mortality rate of ex-service men insured is about the same as the ordinary population, on the tables that we use.

*By Mr. Cameron:*

Q. They make no difference?—A. No difference.

*By Mr. Mutch:*

Q. That is in spite of the fact that a great percentage of your policy holders are pensioners and men who are not 100 per cent fit?—A. Oh, yes; about 10,000 are pensioners.

*By Mr. Cameron:*

Q. Out of a total of 25,000?—A. 27,000.

*By Mr. Reid:*

Q. 10,000 are pensioners?—A. That is approximate.

*By Mr. MacNeil:*

Q. The statement tabled by the minister gave the figures up to March, 1935?—A. Yes, that is this.

Q. Can you give the figures to date?—A. No, the statement is not made up to date. We do not make up the statement. That is made up by a representative of the Department of Finance.

Q. Can you give us any information as to the total number of lapses?—A. No, I have not studied the number of lapses. Our lapses and reinstatements are very favourable as compared with ordinary insurance. We have a small lapse rate as compared with ordinary insurance.

Q. What is the lapse rate?—A. I have not the figures.

The CHAIRMAN: I have asked for Mr. Finlayson of the insurance department to come up here. Mr. White handles the administration. Exactly what relationship is there between you and the insurance department?

WITNESS: The Canadian Pension Commission acts as agent to the Minister of Finance who was the minister of the bill. The superintendent of insurance is responsible for the annual report through the Minister of Finance.

Q. He looks after the actuarial end of the business?—A. Yes. This actually is his statement.

*By Mr. Cameron:*

Q. Who pays the cost of administration?—A. It is paid by the department.

*By the Chairman:*

Q. The Department of Finance?—A. No, no, the Department of Pensions and National Health.

[Mr. J. White.]

*By Mr. Cameron:*

Q. Not out of premium money?—A. No; out of a vote.

*By Mr. MacNeil:*

Q. I am interested in those whose payments have lapsed?—A. Yes.

Q. In your experience, can you give any reason?—A. I will tell you the number lapsed in the year 1935—2,199. That was the number lapsed, but against that we would have to put the reinstatements—1,957.

*By the Chairman:*

Q. What were those figures?—A. 2,199 and 1,957. There are very very favourable figures.

*By Mr. Emmerson:*

Q. About two hundred net?—A. Only about two hundred.

*By Mr. MacNeil:*

Q. If a man falls behind in his payments of premium under what conditions may he be reinstated?—A. His health must be satisfactory to the commission, and he must pay the arrears of premium with interest within five years.

*By Mr. Mutch:*

Q. Is it true to say that the man who got this insurance or who took this insurance because he was less than 100 per cent fit loses that other than on reinstatement?—A. No, he does not lose his insurance.

Q. What do you mean by the statement that his health must be satisfactory?—A. The general procedure is that we do not take into consideration the progress of a disability that the man had when he took out his policy; it is only new disabilities that we take into consideration.

*By Mr. Emmerson:*

Q. When do you call it lapsed?—A. If the man does not pay his premium within the month of grace. If the policy is in force over two years he has certain options he can choose. He has paid up insurance, cash value or extended term insurance.

*By Mr. MacNeil:*

Q. How many accepted cash surrender value in 1935?—A. 844.

*By Mr. Mutch:*

Q. Have you any figures as to the number who have been reinstated?—A. If it is cash value, they cannot be reinstated.

*By Mr. Reid:*

Q. Is that progressive?—A. March, 1933, was the high total—1,814. That was the highest. 1934 was 1,411, and 1933, 844.

*By Mr. MacNeil:*

Q. In view of the accumulated surplus would you care to venture an opinion as to the effect of permitting those who have lapsed an opportunity of reinstatement by special statutory enactment?—A. Those who lapsed are allowed to reinstate within five years of the date.

MR. MUTCH: The man who surrendered for cash did it because he was desperate.

WITNESS: There is no financial question involved.

*By Mr. MacNeil:*

Q. Would you not say that the majority of lapses has been due to unusual economic circumstances?—A. My experience with this insurance is that no man lapses his policy if he can help it. By the way, in connection with the reinstatement of cash surrender values, do you suggest he would have to pay his cash surrender back, or are you suggesting a new insurance? They are two different things, you see. It would not be of advantage to a man to allow him to revive a cash surrender value.

Mr. MUTCH: You might let him take new insurance.

The CHAIRMAN: That is equivalent to reopening the act.

Mr. MUTCH: Unless you point out that it was through force of circumstances that he was obliged to surrender.

The CHAIRMAN: I would not think they had very much more claim.

WITNESS: You are going to get into difficulty. If you are only going to make a special class and allow him to have new insurance, you are going to have difficulty all the time.

*By Mr. MacNeil:*

Q. What would the effect be on the surplus. It is not a question of finance at all. You are just giving him new insurance. He has got to meet the bill just as he did before, and our balances have been going up all the time.

Q. You stated that this act has not cost the country any money?—A. It has not up to now.

*By the Chairman:*

Q. But you expect it will?—A. I cannot say whether it will or not. We have no experience to go by. There is no insurance of a like nature. All I can say is that it has not up to now, and our balances increase each year.

*By Mr. MacNeil:*

Q. I understood you to say that there would be a great deal of trouble involved to reopen it?—A. I didn't. I said if you reopened it to one special class you are excluding another bunch that would not be able to get it, and I am afraid there would be quite a lot of disappointed people, because there are people who have gone on extended term insurance and that has expired. People have got reduced paid up insurance because they could not keep their premiums up. There is a lot of different classes as well as cash values.

*By Mr. Mutch:*

Q. Can you explain, Mr. White, why the time limit was set?—A. The last one, the 1928-33?

Q. Yes.—A. I believe, speaking from memory, that the Legion requested it be open for five years, and the request was met. It was only open for one, then it was extended for five years.

*By the Chairman:*

Q. When did it first close?—A. It was 1928.

Q. No.—A. 1928 it opened for one year.

Q. When was it closed?—A. 1933 was the last close.

Q. When was it first closed?—A. 1923.

Q. And then it was carried on for how long?—A. It was closed till 1928. It was open from 1928 to 1933.

The CHAIRMAN: In 1933 it automatically lapsed.

[Mr. J. White.]



*By Mr. Reid:*

Q. It was open from 1928 to 1933. Did many take advantage of it?—A. In that five-year period we issued 14,742 policies for \$33,571,000.

*By Mr. Cameron:*

Q. Are there applications now from people who want it reopened?—A. Yes, practically every day we get requests for insurance.

*By Mr. MacNeil:*

Q. What is the present value of the total policies?—A. In 1935 there were 26,933 policies issued for \$57,903,582.85.

Q. And paid out?—A. On account of deaths?

Q. Yes?—A. I have it here by years. In March, 1935, we had 267 claims and paid out \$202,971.

*By the Chairman:*

Q. Of the amount of \$598,816 shown in this statement of death claims received you actually paid out in 1935, \$202,971, because it is spread over?—A. Yes. And in addition to that, those who get pensions do not get the full insurance.

*By Mr. Mutch:*

Q. In the case of death the pensioners do not get the full insurance?—A. Not if the pension is awarded to a dependent of the assured. She receives \$500 and return of the premium with interest. That is in the statute.

Q. Is it in the policy?—A. Yes.

Q. I must read my policy again.—A. It is Condition No. 6.

Q. Would you please repeat that?—A. In the event of a pension being awarded to a dependent of the assured, upon his death we pay an amount of \$500 insurance and return the premiums with compound interest on the balance.

*By the Chairman:*

Q. That is in the statute?—A. Yes. We did not pay the \$500 at the start, but just paid the premiums back.

Mr. MUTCH: It always pays to examine these things carefully.

*By Mr. MacNeil:*

Q. As matters stand, Mr. White, can you give us some indication, based on the actuarial tables used, of the ultimate result?—A. This is the actuary's report for the year 1935, in which he shows that providing, of course, for a death rate on the tables used, the surplus will be \$1,102,066. By the way, this is the actuary's report, not mine, the actuary of the Department of Insurance.

*By the Chairman:*

Q. How is it they do not agree with you?—A. This is 1934; it is not mine.

Q. There is some disagreement there?—A. Their point is that there is no experience to show how the death rate will be accelerated in the future. We do not know, we cannot tell. There is no other insurance of a like nature, and no experience to go on; and they anticipate an accelerated death rate, I presume, but make the calculation on the ordinary rate.

Q. This insurance was not intended for pensioners in the first place. Originally it was designed for a meritorious class. I remember it was Dr. McGibbon who argued for it. It really was not a pensioners' insurance at all, but was for fellows who could not get pension, burned-out men.

Mr. MUTCH: Then a man is merely a chump to carry that insurance.

*By the Chairman:*

Q. What is your answer to that statement, Mr. White?—A. If he is in such a deplorable condition that he cannot get insurance anywhere else he can get under this scheme a minimum of \$500 and 4 per cent interest on his investment, and also coverage for all other disabilities.

*By Mr. Mutch:*

Q. For which he pays almost the regular insurance premium?—A. Yes, but if he cannot get insurance anywhere else he can get insurance under this scheme. The least he can get is 4 per cent compound interest.

*By Mr. MacNeil:*

Q. In view of that anticipated surplus, would any amendment to the Act be warranted, any relaxation of the regulations to take care in some way of those whose policies have lapsed?—A. That is rather difficult for me to answer.

The CHAIRMAN: Perhaps Mr. Finlayson can answer that question. He is the boss of this thing. Mr. Finlayson, would you come to the table and sit beside Mr. White and tell us all about this insurance?

Gentlemen, Mr. Finlayson is the superintendent of insurance for the Dominion of Canada.

Mr. FINLAYSON: It is a pretty big order, Mr. Chairman.

Witness retired.

Mr. G. D. FINLAYSON, called.

*By the Chairman:*

Q. There has been some little discussion as to the statement respecting returned soldiers' insurance. Mr. MacNeil desires to know just what profit there is in it up to the present time. The statement shows what?—A. Well, Mr. Chairman and gentlemen, too much reliance cannot be placed upon any apparent surplus disclosed by this valuation balance sheet. In the first place, the valuation is based on the assumption that the mortality shown by the mortality table used in the valuation will be experienced throughout the lifetime of this fund. That assumption is probably quite unwarranted. In the second place, the valuation is based on a rate of interest of 4 per cent, which is quite out of line with the rates at which the government can borrow money at the present time, or probably can borrow money for many years to come. So that there is little to be gained from looking at this apparent surplus in this valuation. For instance, if we decided to value this fund at 3 per cent, which would be the maximum rate which would be justified having regard to the cost of the government of money, it would wipe out any surplus that appears to be here.

The reserve brought out on a 4 per cent valuation is over \$11,000,000. A valuation of 3 per cent would probably absorb approximately 10 per cent of that reserve. It would increase the reserve by over a million dollars, or over the amount of the surplus shown of this valuation. But, that is not the most serious assumption, the most serious assumption made is that the mortality shown by the mortality table will continue to be experienced for the rest of the lifetime of the fund. The valuation is made on the basis of a standard mortality table based on British lives, lives insured in British insurance companies after medical examination, for a select life at the time of underwriting. This scheme has had no medical examination from the outset. That has of course resulted in impaired lives, that is the object of the scheme is to permit impaired lives to be insured. But it is bound to have its effect on the mortality. Some of that excess mortality has already been experienced.

[Mr. G. D. Finlayson.]

*By Mr. Reid:*

Q. It has been heavier than it would be with ordinary risks, has it?—  
A. Yes.

*By Mr. MacNeil:*

Q. Has that happened to any comparable degree?—A. Yes. I would say possibly double what would ordinarily be experienced. But that is not the most serious aspect to it. The excess mortality experienced up to date has been the immediate mortality arising from the very serious impairment. There is to be apprehended, and not merely apprehended but to be with certainty experienced a suspended mortality, a deferred mortality, due to more or less undisclosed impairments in the later years of life.

*By Mr. Reid:*

Q. What do you mean by deferred mortality?—A. It means mortality which does not make itself apparent in the death rate immediately, or in the early years, possibly not in the first ten, fifteen or twenty years of the scheme, but which will make itself apparent in the later years of life due to inevitable impairment in practically all of the lives insured under this scheme.

*By the Chairman:*

Q. In other words, we will all kick out about the same time. Is that what you mean?—A. It does not mean that. You cannot say what effect it will have on any individual. Individuals under this scheme may live to more than the allotted span; but it does mean that on the average there will be a deferred suspended mortality which will make itself felt in the later years of life when impairment occurs, even in lives that have not been subject to war hazard. So that I should say there is nothing on which to build any conclusions, nor are any conclusions to be drawn from any surplus disclosed in this valuation. The only conclusion that can be drawn I think is that there is going to be an inevitable loss to the government on the scheme, even after providing no reimbursement for the cost of administration.

Q. That is, you are sure there will be a loss at some time or other?—  
A. If you disregarded that deferred mortality altogether and valued it on a 3 per cent basis, you would show a loss, which would be a very unusual situation for a scheme 15 years old.

Q. And if we re-opened it now?—A. You would increase the amount of the loss. Is that the proposal now?

Q. No, I do not think there is anybody seriously proposing re-opening. I think the proposal was to do something about those who surrendered their policies. Isn't that it, Mr. MacNeil?

Mr. MACNEIL: Yes.

*By the Chairman:*

Q. What is there to be said for that?—A. There is provision now for the reinstatement for lapsed policies. When the Act was passed in 1920 there was provision for making regulations providing for the form of the contract. The form of the contract as drawn up generally contains a clause permitting reinstatement within two years of the date of the lapse. That was the usual provision in insurance company policies at that time. Since that time, I think only a year or two ago, that provision was liberalized by regulation to provide for reinstatement at any time within five years. That was done last year, 1935, to provide for reinstatement at any time within five years. Now, that provision fairly well agrees with the provision for reinstatement in the ordinary insurance companies, and it seems to me to give reasonable provision for second thought on the part of the man who lapses.



*By Mr. Reid:*

Q. Have there been many reinstatements?—A. Oh, there are a large number of reinstatements every year. Reinstatements in fact almost equal the lapses. Yes. In the fiscal year 1934-35 reinstatements were just under 2,000 policies for \$4,700,000; and the lapses in that year were just over 2,000 policies for \$5,305,000; so that there were \$600,000 more lapses than reinstatements—\$600,000 of insurance and about 240 in number of policies.

*By Mr. MacNeil:*

Q. In one year?—A. Yes.

Q. Have you any statistics as to the total net lapses?—A. You could only get that by running over the statements for the various years. It has not been summarized. I think it is all here. I can give them to you roughly for the last two years.

Q. Could you give them to us commencing say in 1930?—A. Perhaps I better just run back year by year. That will give you some idea will it not?

Q. Yes.—A. I will give you that one way or the other for each year. For the fiscal year 1934-35 there was a net lapse—that is, gross lapses less reinstatements—of 240 policies for \$560,000. Now, that is for the fiscal year 1934-35. For the fiscal year 1933-34 there was a net of 750 policies for \$1,600,000 of insurance. For the fiscal year 1932-33 there would be a net of 800 policies for an amount of just under \$2,000,000 of insurance. For 1930-31 there was a net of roughly 700 policies for \$1,600,000 of insurance. For the fiscal year 1929-30 there was a net of 630 policies for \$1,500,000 of insurance. Is that far enough?

Q. Yes. That is approximately 4,000?—A. 4,000 policies.

Q. Would it be sound business to consider any special consideration for those whose policies have lapsed because of extraordinary conditions of employment; I mean, in the way of waiving the requirements as regards payments of arrears?—A. Oh, I do not think that should be done. They have the privilege now of coming in and paying up. I do not think it would be right to waive the premium.

Q. You understand the plight of these men, that it will be some time possibly after they are regularly employed before they can overtake the payment of arrears?

The CHAIRMAN: Would it be fair to the fellows who paid during all that time?

Mr. MACNEIL: That is another point that you have to consider.

WITNESS: It involves discrimination; and it is likely to lead to this condition, that others may be induced to lapse in the hope of some similar concession being made to them later on. I think that should be avoided if at all possible.

*By the Chairman:*

Q. What about cash surrender? That is what you wanted to know. What is the position of those who accepted cash surrender?—A. The man who has accepted cash surrender value has no right of reinstatement. It is as if he had not been insured.

Q. It is a new proposition?—A. Yes, it is a new proposition.

*By Mr. MacNeil:*

Q. Do you think it would be possible to reopen or reconsider their applications as new insurance?—A. No, I do not think so.

*By the Chairman:*

Q. They would be in exactly the same position as the man who had not insured before the dead line was put on?—A. There is the assumption that the

[Mr. G. D. Finlayson.]

man who surrenders his insurance is a fairly good risk, just as good as a great many of the men who have not taken up this insurance at all. If he needs insurance now, the assumption is that he has become an inferior risk since the date he surrendered. You see what that would lead to. It would mean that a man would take the chance of getting in by a concession of this kind. They would take the surrender value when they were in fairly good health and thought they did not need the insurance; and then when impairment comes, they would look to be taken back.

*By Mr. MacNeil:*

Q. That covers my point. I had understood that there was quite a substantial surplus and some consideration might be given these cases. It is quite definite, Mr. Finlayson, is it, that any consideration of these matters would increase the liabilities of the public treasury?—A. There is no doubt about that. There is not the least doubt about that.

*By Mr. Cameron:*

Q. Is there any automatic non-forfeiture clause in the policy?

Mr. WHITE: Yes, after two years; after the premiums have been paid for two years.

WITNESS: It was in at the outset; and I do not think it has ever been taken away.

*By Mr. Cameron:*

Q. That is, if a man's policy lapsed for non-payment of premiums, he is protected for a certain time?—A. Quite.

Q. He is given the option of taking his cash surrender value if he wants to? —A. Yes. He is protected until his equity has been exhausted.

Q. The same as an ordinary policy?—A. Yes.

The CHAIRMAN: Thank you, Mr. Finlayson; thank you, Mr. White.

Witness retired.

WALTER S. WOODS, re-called.

The CHAIRMAN: Gentlemen, if you will turn to the War Veterans Allowance Act you will be able to follow this. I think Mr. Woods has redrafted the section dealing with the entitlement to war veterans' allowances of persons down to the age of 55, and the conditions under which they may obtain war veterans' allowance. I think that was the only point you wanted to take up with him. That is the principal thing, anyway.

WITNESS: Mr. Chairman, if any member has no copy of Bill No. 27, I have a few spare copies here.

Mr. MUTCH: Is that section 4, page 2?

The CHAIRMAN: Yes, section 4 on page 2.

WITNESS: Members of the committee will probably recall that General Ross, speaking on behalf of the Canadian Legion, felt that particular preference in any amendment should be given to those veterans who had service in a theatre of actual war.

*By the Chairman:*

Q. Perhaps you had better explain. There are some veterans who have had no experience in a theatre of actual war, but because they are pensioners, even though they served only in Canada, they are entitled to the benefits of the War Veterans' Allowance Act. Generally speaking, if they are non-pensioners and

have served in a theatre of actual war and have fulfilled the other conditions, they are entitled to the benefits of this act. But when the act was originally drawn up they permitted anyone who was a pensioner to have the benefit of it, even though his service was only in Canada or England. Is that correct?—A. That is correct. Any pensioner, or any veteran who commuted his pension,—that is to say, he received final payment in lieu of annual pension,—was also eligible despite the fact that he might not have served in a theatre of actual war. So we have a number of recipients who served in Canada only, and also a number who served in England only, by virtue of their being pensioners or having commuted their pensions. When the question of amendment was brought up, General Ross expressed the opinion on behalf of the Legion that they would be satisfied if any broadening of the act only took care of those who served in a theatre of actual war. The amendment as it appears in Bill 27 had reference to empowering the committee to deal with meritorious cases.

Q. You had better read it as it is?—A. Yes. It proposed an amendment to section 4 of the War Veterans' Allowance Act to this effect:—

Provided, however, that the board may, in its discretion in any specially meritorious case, classify as permanently unemployable, any veteran who has attained the age of 55 years and is so incapacitated by reason of permanent disability, pre-ageing and general unfitness, as to be, in the opinion of the board, incapable of maintaining himself.

I believe, Mr. Chairman, the opinion was expressed during the witness's testimony that this broadening was hedged around with too many qualifications; and the following proposal is submitted to the committee as a substitute. Section 4 as it reads in the act at present says:—

4. Subject as hereinafter provided, allowances under this act shall be payable with the approval of the board to any veteran who, at the date of the proposed commencement of the allowance, has attained the age of sixty years or is, in the opinion of the board, permanently unemployable by reason of physical or mental disability.

It is now proposed to add these words instead of those in Bill 27:—

Or having served in a theatre of actual war.

*By Mr. Green:*

Q. Are you leaving out about the one year residence?—A. The one year residence will come in conclusion. This is put in the centre of the section so that the one year residence comes at the end of the section as it did before:—

. . . or having served in a theatre of actual war, has attained the age of 55 years . . .

You will observe that "meritorious" is left out.

. . . and is in the opinion of the board incapable of maintaining himself because of disability, pre-ageing and general unfitness.

That is suggested as a substitute.

*By Mr. Mutch:*

Q. Is it "pre-ageing and" or "pre-ageing or"?—A. Because of disability, pre-ageing and general unfitness.

*By Mr. Green:*

Q. Why do you use the word "and" instead of "or"?—A. Well, if it read, "because of disability or pre-ageing" then any slight disability might be considered as entitling him. If you said, "or pre-ageing" and left "pre-ageing" as

[Mr. W. S. Woods.]



the qualification then just the fact that the man was older than the average veteran of 55, would entitle him. If you use, "general unfitness" as the single qualification, without reference to the other two, then it would apply to anyone who was a misfit in the labour market but from the standpoint of health or pre-ageing might be all right.

Q. What are the key words again that replace "permanently unemployable"?—A. "Having served in a theatre of actual war, has attained the age of 55 years and is in the opinion of the board incapable of maintaining himself. . . ."

The CHAIRMAN: Instead of "permanently unemployable" the words are "incapable of maintaining himself."

*By Mr. MacNeil:*

Q. Does that debar those below the age of 55?—A. Not if they come within the category of permanently unemployable, because they are already provided for in the first part of that section as permanently unemployable, if they are, to all intents and purposes, washed up.

*By Mr. Mutch:*

Q. It does give the board discretionary power at 55 instead of an absolute right at 60?—A. It creates a special class between those permanently unemployable and those who are 60 to take care of the border line cases who may be suffering from a combination of all these things, yet the doctors will not certify them. They are referred to in the Hyndman report at page 18:—

That the War Veterans' Allowance committee be requested to arrange for periodical visitation of various centres throughout Canada by one or more members of the committee in order to personally interview applicants for war veterans' allowance who are under 60 years of age and who cannot be classified as permanently unemployable from the medical standpoint but appear to be so from an industrial standpoint, in order to determine whether or not such applicants shall be awarded war veterans' allowance.

Since the Hyndman commission brought in its report, my committee has covered the country from coast to coast. We have had to travel singly because of pressure of work in the office to keep the applications moving, and we have interviewed problem cases. We have invited the district administrators to have in problem cases that we had declined, and in every office in the Dominion we have encountered a class of veteran who is on in his late fifties but looks older than the average man does of his age, who has some disability but the doctors will not certify him as permanently unemployable, and whose industrial history is such that we are persuaded there is a very remote likelihood of his ever being absorbed in permanent employment. Now, this group in Calgary looks so much like the group in Christie street in Toronto that there is very little difference in them. It did impress the Hyndman commission first, and it has impressed my colleagues and I since that time, that there is a definite group between those two classes that parliament really intended to provide for, yet they do not come within the category of the statute at the present time.

*By Mr. Green:*

Q. Does that do away with the qualification "permanently"?—A. Yes. This creates another class.

Q. That is, the man would not have to be permanently incapable of maintaining himself?—A The section as it has been re-worded states:—

. . . or having served in a theatre of actual war has attained the age of fifty-five years and is in the opinion of the board incapable of taining himself . . .

We are trying to make it as broad as possible so that we can take care of problem cases.

. . . is in the opinion of the board incapable of maintaining himself because of disability. . . .

The word "permanently" has been taken out.

Q. Would you still be restricted to medical opinion in deciding that?—

A. Oh, no; but he must have some disability.

Q. In other words, it would be a combination of medical opinion and your opinion as to his industrial employability?—A. Yes. This is an attempt to describe that class we have encountered everywhere that we have gone.

*By Mr. Cameron:*

Q. What do you mean by pre-ageing?—A. A man who looks older than the average man of his years.

Q. Take a man who saw service in an actual theatre of war, who is 56, not pensionable at all, but he has a motor accident for which he can get no compensation. Both his legs are cut off. He is not pre-aged. He does not come in this category at all. Must he be pre-aged as well as generally unfit and suffering from a permanent disability?—A. We consider such a case unless he is a professional man—if he is a man who has relied on physical labour for his living—that he is permanently unemployable, and would give him the allowance.

Q. He is not pre-aged?—A. He comes under the category of those who are permanently unemployable.

Q. Under the act as at present?—A. Yes. This is merely an additional section in the act.

*By Mr. Mutch:*

Q. My understanding is that this does not really involve much for those who now come in, but it does open the door for some who have had difficulty in getting in?—A. Yes. As it is re-worded now the act will take in three classes: one, those who have attained the age of 60 and who may or may not be healthy; two, those who are permanently unemployable because of physical or mental disability; three, the border line case who is not quite 60 and not quite permanently unemployable. That is the group we are attempting to describe in this change.

*By Mr. Cameron:*

Q. Do you limit it to front line men?—A. Yes.

*By Mr. Green:*

Q. How many men would that affect, do you think?—A. It is rather difficult to tell the number it will affect. By actual experience we can tell you with a fair degree of accuracy the number of veterans alive to-day at the age of 55, and from 55 to 60; but to tell you the number of them again who are pre-aged and who are dispossessed of a job and who have some disability is rather a difficult thing to do.

Q. You cannot give the figures by groups. That is, take the ages from 55 to 60, from 50 to 55, from 45 to 50 and from 40 to 45?—A. We can tell you the number and the cost if the act admitted veterans of 55 under its present terms; that is to say, if we admitted all veterans of 55 years of age without regard to their being permanently unemployable. In other words, if the present age of entitlement in the act were lowered to 55 we could tell you the approximate number.

[Mr. W. S. Woods.]

Q. What would that be?—A. The additional expenditure under the act if the age were lowered to 55 without qualification would be approximately \$2,000,000 the first year.

*By the Chairman:*

Q. Over and above the \$3,200,000 now provided?—A. Over and above the \$3,200,000. It is only fair to say, of course, that a lot of these men are being maintained by the state in one way or another at the present time.

*By Mr. Reid:*

Q. How would that affect the man going out in the chicken business in British Columbia?—A. It would depend to what extent he came within this category, Mr. Reid, to what extent he came within this description; that is, as to his physical entitlement.

Q. He might be able to putter around, using that word advisedly, a small ranch.—A. He would not be disqualified from assistance subject of course to the extent to which his property supported him.

*By Mr. Mutch:*

Q. How much is a man allowed to earn and still retain the full amount which the act provides?—A. The act provides that the maximum income of a single veteran shall be \$365 a year.

Q. The same as the old age pension?—A. \$30 a month; married veteran \$730 a year.

Mr. GREEN: Old age pension is not as much as that.

*By Mr. MacNeil:*

Q. Does that include supplementary earnings?—A. Apart from any casual earnings.

*By the Chairman:*

Q. He is allowed to earn casual amounts apart from that is he not?—A. Yes; casual earnings were interpreted to mean mowing the odd lawn, looking after the odd furnace, but not in a regular position.

*By Mr. Green:*

Q. What would it cost if the age were reduced to 50?

Mr. MUTCH: Retaining the same proportion.

The CHAIRMAN: Keeping the act as it is, but simply putting in 50 instead of 60.

Mr. MUTCH: Keeping Mr. Woods' amendment in.

The CHAIRMAN: No. Instead of putting in 60 as the date on which he is entitled to it, put in 50. We have figures on what it would cost if we set the age at 55, and it is \$2,000,000 extra this year.

WITNESS: That is a very important question, and I have a memorandum here I should like to read. It is only one page. The question of lowering the age limit has been somewhat contentious and I think it is important that this statement be made:

#### STATEMENT RE COST

When the government was considering War Veterans' Allowance legislation in 1929-30, a committee of the department was appointed to study this question.



It was found that except by examining the file of each individual soldier, the ages of the men of the Canadian Expeditionary Force were not readily available. Complete information was however available on the ages of the 57,000 veterans who were in receipt of pension at that time. A statement was secured showing the number of pensioners in the various age groups. It was found that the 57,000 pensioners bore the relation of 1 in 5, to those members of the Canadian Expeditionary Force who served in a theatre of actual war or were pensioners and were still alive. These numbered 280,000.

In order, therefore, to arrive at the ages of the expeditionary force of those still living, the various age groups of pensioners was multiplied by five. This result showed that 12,705 who served in a theatre of actual war and had attained the age of sixty would be alive in 1930, 15,000 in 1931 and 30,702 in 1936, etc.

The question then arose as to what percentage of these would be in necessitous circumstances. It was estimated by the committee that 25 per cent of those attaining the age of entitlement would be in necessity. Approximately \$300 per annum was estimated to be the rate of allowance, having regard to the ratio of married and single. On this basis it was estimated that the legislation would cost in 1935, \$2,844,000. The vote for the fiscal year 1935-1936 was \$2,550,000 and this was practically all used.

It was estimated that \$3,200,000 would be required for 1936, and a vote for this amount has recently passed parliament.

Although this forecast seems to have been fairly accurate, it did not include the number of veterans who would be granted the allowance by virtue of being "permanently unemployable," not having attained the age of sixty. There was no way of estimating what that number would be.

Actual experience has shown that instead of 25 per cent of those attaining the age of sixty each year becoming entitled to the allowance, the actual figure is just a little over 20 per cent, and although the sum expended is approximately what was anticipated, the difference has been made up by the "permanently unemployable" veterans.

As at January 1, 1936, there were 5,765 veterans receiving the allowance who had attained the age of sixty and 2,604 who were receiving the allowance by virtue of being "permanently unemployable," a total of 8,369.

I have outlined how the estimate was first made on the cost of this legislation. Replying to the question on what it would cost if the age were lowered to 50, Colonel Sutherland, quoting Hansard page 1223, February 22, 1935, estimated the cost would be increased by \$5,000,000 the first year (1935-36) and for the next ten years the increased cost would be \$61,700,000 or from \$42,000,000 to \$103,700,000.

*By Mr. MacNeil:*

Q. Do you know on what he based his finding?—A. This was based on the assumption that the same percentage would be found to be indigent as have been found to be indigent at 60 and the representative of the treasury has prepared the estimate on that basis.

For the purpose of calculation he has also prepared an estimate on the basis of 15 per cent instead of 20 per cent being unprovided for.

In that event the additional cost the first year would be \$3,700,000 and over the next ten years, an additional \$46,000,000.

I should like to make it clear that my committee has worked out no estimate as to the future cost for fear that we would be misunderstood. What we have done is furnish the formula to the representative of the treasury, the formula

[Mr. W. S. Woods.]

that was used originally in 1929 when the cost of the proposed Veterans' Act was under consideration. We furnished him with that formula and he has worked out the figures and he said you have found that there has been 20 per cent unprovided for instead of 25 per cent, so therefore I am furnishing you with the statement on the basis of there being 20 per cent unprovided for, and an additional statement on the assumption that you will only find 15 per cent unprovided for.

*By the Chairman:*

Q. In the one case it is \$61,000,000 in ten years, and in the other case it is \$46,000,000.

*By Mr. Green:*

Q. You have no idea what the cost will be under the new amendment?—A. It is difficult to tell, Mr. Green, because whilst we can get actuarial figures on the number of veterans now alive it would be extremely difficult to forecast what number would come within the category.

*By Mr. Reid:*

Q. Would you look for many applications if the amendment went through?—A. Yes, there would be quite a flood of applications on the part of those between 55 and 60, in order to determine whether or not they are entitled.

*By the Chairman:*

Q. We could only make a guess in forming an estimate as to the cost?—A. Just as a guess I believe between \$200,000 and \$250,000.

Q. For the remainder of the year?—A. For the remainder of the year, to take care of the amendments as they appear in bill 27.

*By Mr. Green:*

Q. What would be the difference if it were made applicable to men of 50 to 60?—A. The same description? There again, Mr. Green, it is pure conjecture. I will know more about it in six months' time.

Q. Up to now they are all conjecture, are they not? You do know the results already?—A. That would be taking in an additional five years?

Q. Yes.—A. I presume it would be approximately double the amount.

Q. More than double.

The CHAIRMAN: I think so, yes.

*By Mr. Green:*

Q. You are proposing to take in a group now from 55 to 60?—A. Yes.

Q. My question is, what would be the additional cost if you took in groups from 50 to 55?

Mr. MACNEIL: The same thing.

WITNESS: Yes. I should think approximately.

*By Mr. Green:*

Q. Another \$200,000?—A. Yes at least.

The CHAIRMAN: It would be bound to run more than that, because there are a lot more men in that category.

*By Mr. Mutch:*

Q. I suppose the average of soldiers is just under 50, and the great majority would be just over the average?—A. 47, I understand.

Q. The majority, I should imagine, would be over the average in that first group, five years over the average?

Mr. GREEN: Probably there is a greater number working between the ages of 50 and 55 than between the ages of 55 and 60.

WITNESS: It is purely a guess. We will know more about it in a few months' time.

Mr. MUTCH: You can be absolutely certain that you will get plenty of applications at age 55.

Q. Do you consider as evidence premature ageing from the fact that a line company writes a man up 14 years?—A. I beg your pardon.

Q. In the case of a man whom the life insurance company writes up 14 years, would that be considered evidence of pre-ageing?—A. I would not care to express an opinion on that, Mr. Mutch.

Q. It is common practice for line companies to write up men who are sub-normal. The maximum is about 14 years.—A. Yes.

*By Mr. MacNeil:*

Q. A man to qualify in that class, 55-60, must fulfil all three conditions, or he is judged on the basis of all three?—A. On the basis of all three. He may have one of these in abundance, but another slightly. It is a question of balancing; it is a combination of conditions of pre-ageing, general unfitness and disability.

*By Mr. Reid:*

Q. There would be no question arise as to the unemployability of the man?—A. It would not be judged from a physical standpoint. But I can conceive, Mr. MacNeil, replying to your question, of a man of 55 who is suffering from pre-senility to a marked degree. He may have the physical appearance of a man of 65. Then surely one would not feel he had to attach so much importance to the other two qualifications, that is, as to general unfitness, etc. So it would balance itself, I think. Our problem is to try and arrive at a conclusion when we get the picture of the man, taking all elements into consideration, as to whether he is one of those whom it was intended should be provided for.

*By the Chairman:*

Q. You think that phraseology gives you fairly broad discretion?—A. I certainly do.

*By Mr. Green:*

Q. You are quite sure that by using those words, "incapable of maintaining himself," it will enable you to get away from the medical end of it?—A. Quite sure.

Q. That is, you will not be bound by medical opinion only?—A. No. I want to say furthermore, Mr. Green, that when this amendment was proposed in consultation with my minister it was designed to provide for a class that my committee has had a profound sympathy for, a class that we wanted to see taken care of. So we have in mind the class of men whom we wish to take care of.

Q. In these cases that you have run across, what percentage would be in the group 55-60 and what percentage would be in the group 50-55?—A. The bulk of problem cases we have seen are in their late fifties.

Q. I suppose the number diminishes as the age reduces?—A. Yes, indeed, the numbers do diminish.

Mr. MUTCH: Does it not boil down to this that legislation is workable provided the personnel are in sympathy and interpret it correctly? It is like all the rest of legislation; almost any kind of legislation can be made to work if the right people are behind it. If this committee—and it is in a sense their suggestion and thought—conceive the idea of being able to do something for somebody who needs it, there is no reason why we should worry about it working.

[Mr. W. S. Woods.]



*By Mr. Green:*

Q. How do you determine whether or not a man is permanently unemployable?—A. He is examined by doctors of the department and his application is forwarded. Perhaps I had better commence at the beginning. Any inquiry received from a veteran as to his eligibility is replied to by sending him an information leaflet. This information leaflet is an attempt on our part to translate into everyday commonsense terms what the act is all about. We invite him, after he has read it through, if he thinks he is eligible, to complete the application form which is attached. This is the application form. It states his income and assets and so forth, also of his wife, and he is told to forward that to the nearest office of the department. Now, if he is under 60 and has applied on the ground that he is permanently unemployable we arrange to have a medical examination of him. If he lives in the country fairly remote from a district office where the department have facilities in the hospital, he is told to report to the nearest medical representative of the department. That medical representative examines him and sends the medical examination into the district office and the chief medical officer of the district office expresses his opinion on it, and that is the medical evidence that is submitted to us.

If, on the other hand, he lives in the cities where there are hospitals, such as Toronto, Vancouver, Calgary and so forth, he is brought into hospital and examined there in every case by the departmental representatives.

Section 18 of our act provides that the department will furnish the administration subject to the directions of the committee.

Q. Can you not get outside doctors?—A. There is no provision in our act for getting outside opinions, no.

Q. There must be cases where it would be advantageous to have outside doctors, are there not?—A. There are certain contentious cases where I think the veteran himself, or veterans' associations, and so forth, would be more satisfied if we had access to what is called independent opinion; although I want to say that so far as the departmental examiners are concerned the examinations for our work are conducted entirely without bias; they do not care; it is not in their interest whether the man be declined or against their interest if the application is accepted.

Q. Would there be any serious objection to a board being given discretion about outside doctors?

The CHAIRMAN: Then we would have three sets of doctors?

Mr. GREEN: No; to call in a specialist.

The CHAIRMAN: I think if the committee asks for it they often grant it.

WITNESS: Does 91 cover such a thing as that? Could it be made to cover it? I do not know that any amendment would be necessary.

The CHAIRMAN: It is a matter of departmental regulation. We have consultants all over the country.

Mr. GREEN: Apparently they have a lot of trouble getting these consultants in.

WITNESS: I beg your pardon.

Mr. GREEN: Apparently you have a lot of trouble getting consultants now.

WITNESS: No, I would not say that.

The CHAIRMAN: Please do not overload this committee; they are doing very well without too much machinery. The trouble is we have too much machinery.

Mr. GREEN: I have heard complaints that an examination has been made by a departmental doctor when a specialist should have been called in, and that cannot be done.

The CHAIRMAN: I think it could be done if he gave a good reason for it.

Mr. MUTCH: Would not the committee consider the opinion of an outside specialist who appeared on behalf of the man?

The CHAIRMAN: But if the man has not a dollar to pay the specialist, what then?

Mr. MUTCH: I am asking would they consider his views if he paid the dollar or if the Legion or somebody else paid the dollar, and I would like to know where you can get the specialist's opinion for a dollar?

WITNESS: Any medical evidence submitted is considered by the committee, Mr. Mutch—any medical evidence.

*By Mr. Green:*

Q. But suppose there is a conflict between the department doctor and the expert?—A. If the man is not in the city we invariably bring him into the city. We ask the department to send him, and once they bring him in he can be thoroughly examined where they have adequate facilities. Any conflict of that kind, I may say, Mr. Green, is usually on the part of the local doctor, perhaps the man's own family doctor, and the departmental representative; something like that. If there is any conflict of that kind, we think it wiser to bring him in to the nearest hospital and have him examined there where they are not so limited in their facilities.

*By Mr. MacNeil:*

Q. Would you explain the procedure when a man in receipt of war veterans' allowance requires hospitalization in one of the departmental institutions?—A. If he is not a pensioner treatment is not available to him; there are no treatment privileges under the War Veterans' Allowance Act.

Q. But if he is a pensioner and secures treatment, what provision is made for his dependents while he is in the hospital?—A. The war veterans' allowance is suspended when he goes into a departmental hospital for treatment under Section 13 (c) of our Act. In any event, the allowance of any recipient of war veteran's allowance who is a pensioner and is admitted to a departmental institution must under the statute be suspended when he goes into the hospital. The amendment proposed in Bill 27 contemplates giving the committee power to continue part of that allowance to his family in such cases.

Q. If he is not in class 1?—A. If he is not in class 1 and not given pay and allowances.

*By Mr. Green:*

Q. What would be the result if Imperials who were not domiciled in Canada when they enlisted became eligible for war veterans' allowance?—A. We have never studied the number of Imperials in Canada who arrived since the war. That question has never come within our purview. Our Act only recognizes Canadian soldiers and those who were domiciled in Canada when they enlisted. The answer to your question would entail a knowledge of the number of Imperials who came to Canada since the war, and that knowledge is not available to us.

Q. Is it a fact that the bulk of your applicants for war veterans' allowance are on relief?—A. Departmental relief or general relief?

Q. Relief generally?—A. I think it naturally follows that since the Act was designed to take care of war veterans in necessitous circumstances the bulk were in that position when they came to us.

Q. What percentage—all of them?

[Mr. W. S. Woods.]

*By the Chairman:*

Q. In the last two or three years pretty nearly all of them, I suppose, except from the rural districts?—A. A great number in the rural districts have not been getting anything. You would be surprised at the number of chaps who say they have been too proud to ask for local relief.

*By Mr. Green:*

Q. What have you to say with regard to a soldier settled on land possibly valued above \$2,000 from which he is not receiving any revenue?—A. Since the Act was enacted to provide for the maintenance of veterans in necessitous circumstances, the question for the committee to determine is to what extent does the farm contribute towards his maintenance, and to set the rate of the allowance accordingly. When one compares the position of an applicant on a farm with that of an applicant resident in a city, it will be realized that the veteran in the city has to provide out of his \$40 per month rent, clothing, fuel and all the needs of his family, while the farm in many cases contributes shelter, fuel, fruit, vegetables, butter, meat, eggs, and so forth, and we do take into consideration the contribution the farm makes in perquisites towards his maintenance.

Q. The mere fact that the farm is worth more than \$2,000, would not necessarily debar him from war veterans' allowance?—A. No. We have tried to avoid interpreting the Act in too literal a way, and rather to interpret its spirit. If one interpreted the Act too literally inconsistencies would arise. For example, it would be possible for a man on the farm to say: "It is true that I have four cows and a few pigs and some poultry, vegetables, fruit, fuel and shelter, but my cash income does not exceed \$250 per year, and therefore I am entitled to the maximum." To give such a man \$40 per month would be placing him in a vastly preferred position to the rest of the veterans throughout the dominion who have to make out on the amount of the allowance.

Q. If he were settled in an area where he could not keep cows, and could not earn an income, what would you do?—A. In such cases, if the man himself is totally incapacitated and is not able to work the farm, and has a family of children and the contribution from the perquisites of the farm towards their living is negligible, we have given the maximum.

Mr. Mutch: I would like to have a list of the farms that provide all those things you have mentioned!

*By Mr. MacNeil:*

Q. Under the Act as it stands there is discretion in the board to make twelve payments to the widow of the veteran who was in receipt of this allowance?—A. Yes, we continue to the widow for a period not exceeding twelve months the amount of the allowance we were paying to her husband.

Q. Representations have been made to the effect that once that allowance has been cut off it constitutes a rather tragic problem?—A. For the widow, after the expiry of twelve months?

Q. Yes?—A. I have no doubt it does, in a great number of cases. The parliamentary committee which was considering this legislation regarded it as a provision for maintenance of the veteran himself rather than for his family. They viewed it differently from a pension that was granted by right.

*By the Chairman:*

Q. As a matter of fact, I think the original bill did not provide for the widow at all?—A. The original bill did not provide anything for the widow.

Mr. MacNeil: A question arose with respect to applicants for pension who reside in remote settlements. For example, take the case of a man residing in the Peace River District who becomes totally incapacitated and unable to work his



farm. He applies for pension and is brought down through the agency of a welfare organization to such a place as Kamloops, B.C., where he is examined by a departmental physician and entitlement is denied, and he is returned to that remote settlement without getting into contact with any person who could advise him as to his rights under the War Veterans' Allowance Act. Can you suggest any improvement in the procedure that would enable a review of that man's circumstances while he is in the hands of the department so that his interests might be properly safeguarded?

The CHAIRMAN: I inquired into that question in the different offices I visited to the extent of asking what happened to a fellow who was turned down for pension? Would they not shift him along to give him a chance for war veterans' allowance? In my own office I do that when I receive a report from the pension commission that the applicant has no chance for pension, and I understand that in the district offices that is what they are doing. If they cannot find a way to pension the applicant they try him on war veterans' allowance. Every place I have gone they have told me that is the practice.

*By the Chairman:*

Q. Would you say it is pretty general now?—A. So far as any man who visits a centre of the department, any place where the department has an office and hospital or sometimes an office and no hospital, is concerned, he is automatically referred to us if in the opinion of those who interviewed him he is a likely subject for war veterans' allowance. That is a practice which also obtains with the pension quorums that are working. Every few days I receive a letter from some commissioner saying: "We had the unfortunate duty to decline this application for pension to-day, but he looks to us to be a likely subject for war veterans' allowance," and we follow those cases up. That practice applies so far as those who come to the pension quorums or those who visit the district offices of the department are concerned. With respect to those who go to places like Kamloops where the department has no office and there is no one there directly interested in the matter or no one possessed of knowledge of the War Veterans' Allowance Act, for us to provide procedure so that there will be automatic reference would be difficult. Had that man been brought to Vancouver from Pouce Coupe in northern British Columbia or brought to Calgary and it was ascertained there after he was examined that he was a likely subject for war veterans' allowance, I have no doubt he would be given the opportunity to make the application right there; but I am afraid it would be a difficult thing to provide procedure for all the little towns where there are no facilities.

*By Mr. MacNeil:*

Q. What are your facilities for the prompt investigation of the circumstances of the man resident in remote settlements?—A. The investigations outside of cities are done by the supervisors of Soldier Settlement, and as to the remote ones it frequently transpires that the supervisor having visited the family during the past few months can give you the investigation report without going back. In the case that you had in mind, I wired to the district office to secure a medical opinion from the hospital where the man was examined, and at the same time to the Soldier Settlement people to see if they could furnish a report on the circumstances of the family. With these two before us we can decide all the cases.

*By the Chairman:*

Q. You have really three agencies through whom you work; Soldier Settlement, the Pension Board and the department treatment branch?—A. Yes. I should like to say, Mr. MacNeil, as to urgent cases that where we have a man

[Mr. W. S. Woods.]

who is found to be suffering from a terminal condition, carcinoma or something of the kind, we have an arrangement with all district offices of the department that they will mark that application urgent and dispatch it at once, and if necessary not to delay it for the investigation report to come in, because if we have overpaid the man we make an adjustment later on. These cases are dealt with in the Daly building the day they arrive. A messenger is put on the track of the file and he keeps there until he gets it, and these cases are dealt with the day they arrive. There is no delay at all in these terminal cases.

Q. You have no arrears?—A. No. Our board room is cleaned up practically every night.

*By Mr. Green:*

Q. Can you give us any idea as to the ages of the soldiers who are drawing this allowance on the ground that they are permanently unemployable?—

A. That would appear in the annual report of the department. It is on page 83 of the annual report. It gives the ages of all the groups and the number in each age group. There is one at 90 years of age, which starts it off; and there is one at 89 and so forth.

Q. He would come under the 60 year rule?—A. Yes.

Q. I mean, permanently unemployable?—A. The table shows them in each age group.

The CHAIRMAN: For each age from 90 down.

WITNESS: Under 60 there were 2,125; over 60 there are 5,061.

The CHAIRMAN: I see there is one at 33 there.

*By Mr. Green:*

Q. How is that group of 2,125 made up?—A. There are 106 who are 59 years of age; 85 who are 58 years of age and so forth.

The CHAIRMAN: I see there is one at 33 years of age, and apparently there is one of 90.

Witness retired.

The CHAIRMAN: Gentlemen, this concludes the evidence that we have to take, with the exception of hearing Dr. Cathcart sometime when we are considering the bills before us in executive session, and also having placed on the record the replies to Mr. MacNeil's question about P.C. 91. Our next meeting will be on Tuesday of next week, and we will meet in camera.

The committee adjourned to 5.35 o'clock p.m., to meet again on Tuesday, May 26, 1936, in camera.

## APPENDIX "A"

## SUBMISSION OF MR. W. J. YOUNG, UNAFFILIATED VETERANS

*(Copy)*

Object of interview, to review or resurrect the previous 15 or 16 years resolutions, suggestions and attempt to bring into realization the fruits of numerous investigations.

First—the resolution and memorandum as presented to House of Commons in 1931 or 32—21 points. It is realized that many points were covered in Speech at banquet such as hospitalization which should have been effect years ago.

Treatment of all Veterans regardless of Unit Centre with a more uniform procedure for all.

The cessation of relief to small pensioners and the difference in rating, if continued, less formality and an increase to an existing amount, no less than \$30 per month as pension makes up difference. This is confusing and places a wrong impression to public. Clothing should be issued if at all, by the Dept. as is appliances and medicine to all Vets.

Veterans whether in receipt of pension or not should be dissociated from the civilian at any cost and the 25 per cent preference enacted. The solution of unemployment be taken up by an employment committee thereby not giving any special group an opportunity to use this for bait to secure numbers and not members.

All funds to be audited and turned into a general fund under the supervision of a committee of civilians. The scheme of a chain of Hostels and tracts of land for ageing Vets., single and widowers, also married, to be financed by Government with a per cent from funds and to be, in a given time, self-sustaining—no camps, no shelters—minor ailments to be placed with Hostel authorities—  
(3) West Cent. East.

War Vets. Allowance Dept. to be looked into.

Veterans' Bureau abolished or reorganized with less Staff and more jurisdiction given to outside M.D's and Advocates (less travelling expense and more first hand information).

Less discrimination as to race, creed and lodge or association affiliations. Commissioners rulings to be appealed for cause.

All Hospitals, Clinics, also unnecessary Specialists to be investigated. Civic Hospital beds abolished and authorized Sanitorium established.

After 20 years, no need of examining doctors, a man's disability must have been somewhat permanently diagnosed and a rating set by now.

New cases—by outside Drs. and lawyers, and then to Pension Commissioners. "Blue Book" giving national business information to the nation, names of pensions amount rec'd etc.

Notwithstanding opposition, no harm can come of such a report if everything is open and above boards—and name who does not deserve it would suffer; a more open method of giving information on files to Veterans or their representatives (no hold back). So-called plucked files cases be given a haring also neglect cases, prejudiced and other causes be given a full and final airing if a grievance office and officer be appointed.



No time to be lost in bringing a closure to all awaiting cases as to entitlement. Casuals can be cared for by Commission and Hostels as time goes on. Pension ratings *re* non-obvious disabilities to be revised, and no pension less than \$30 per month granted (eventually, why not now). A thorough check-up as to hospital allowances to all classes of patients (important). A wider scope to Veterans *ever* non-pensioners for treatment of teeth, eyes, feet and etc. caused by advancing years—privation and lack of resulting power—this courtesy is accorded school children, aliens, Sailors and Indians (See Drug Bill). Residents of Hull to be given more recognition by Ottawa Dept.

An order to rescind the order compelling Veterans on relief to repay to Government any moneys received (this is not requested of men in camps or people on relief—Officials awake). All cases pending for over one year be granted according to Section 73 of Act.

Immediate formation of committees to investigate at first hand all branches and to report to Minister personally each week as to findings. To be given Carte blanche to act without fear or favour—if no reduction in cost of administration at least proper conduct of same. Annual report duplicate from year to year—too many grants to same. Too much freight, express travel, wear and tear and miscellaneous items, janitor service done by men on relief. Over administration after years when every man who served should have been dealt with years ago.

Armistice Day Parade to be more in the form of a ceremony and less of a show and Parade of scarlet survivors to attend at Cenotaph with dependents who are aged, and the parade, if any, to be by local military units and younger generation.

Poppies and funds to be more equally divided among Vets. and not cornered. Although Vets. are dying off, dependents becoming less case adjusted—still staff and estimates seem to increase.

(Personal problem.)















Dr. Doe  
Mr.  
Mr.

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SESSION 1936

HOUSE OF COMMONS

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( SPECIAL COMMITTEE



ON

# ( PENSIONS AND RETURNED SOLDIERS' ( PROBLEMS )

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 22

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WEDNESDAY, JUNE 10, 1936

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## WITNESSES:

Mr. A. J. Dixon, Department of Pensions and National Health.  
Dr. F. W. Blakeman, in charge of Foreign Relations, Department of  
Pensions and National Health.



## REPORTS TO THE HOUSE

OTTAWA, June 8, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems begs leave to present the following as a

### SECOND REPORT

As instructed by Orders of Reference dated March 16 and April 1, 1936, your committee has considered the following Bills and has agreed to report each of them with amendments, viz:—

Bill No. 26—An Act to amend the Pension Act.

Bill No. 28—An Act to assist towards the employment of former members of the forces.

Your committee has ordered a reprint of these Bills as amended.

All of which is respectfully submitted.

*Chairman.*

OTTAWA, June 10, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems begs leave to present the following as a

### THIRD REPORT

Your committee has considered Bill No. 27—An Act to amend the War Veterans' Allowance Act, and has agreed to report the said Bill with amendments.

Your committee has ordered a reprint of this Bill as amended.

All of which is respectfully submitted.

C. G. POWER,

*Chairman.*

OTTAWA, June 10, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems begs leave to present the following as a

### FOURTH AND FINAL REPORT

Your committee has held 34 meetings and examined 32 witnesses. The following veteran organizations were heard:—

Canadian Legion—Dominion Command.

Canadian Legion—Alberta Command.

Canadian Legion—British Columbia Command.

Canadian Legion—Saskatchewan Command.

Canadian Legion—Tubercular Veterans' Association.

Canadian Legion—Imperial Section—Alberta.

Amputations' Association of the Great War.

Army and Navy Veterans' Association in Canada.

Canadian Corps' Association.

Canadian Pensioners' Association.

Ex-Prisoners of War Association.



In addition to numerous individual representations communications were received from, or briefs filed by or on behalf of the following:—

Disabled Veterans' Association, Vancouver, B.C.  
 Disabled Veterans' Association of Saskatchewan, Regina.  
 Disabled Veterans' Association of Windsor, Ont.  
 Windsor United Veterans' Open Forum, Windsor, Ont.  
 Army and Navy Veterans, Ste. Anne de Bellevue.  
 Canadian Legion—Vancouver Command.  
 National Association of Veterans in Quebec.  
 Unemployed Ex-servicemens' Association, Calgary, Alta  
 C. C. F. Club, Verdun, P.Q.  
 United Veterans of Canada, Vancouver, B.C.  
 Single Mens' Association, Fort William, Ont.  
 Ex-servicemen of Edmonton, Alta.  
 Canadian War Disability Pensioners' Association, Winnipeg, Man.  
 Non-affiliated Veterans of Canada, Montreal, P.Q.  
 Canadian Order of Empire Ex-servicemen, Toronto, Ont.  
 Small Pensioners' Association, Brantford, Ont.  
 Inland Water Transport, Royal Engineers, Vancouver, B.C.  
 Imperial Veterans' Corps in Canada, British Columbia Command.  
 Unorganized Veterans' submission by Mr. J. C. Broderick, West Vancouver, B.C.  
 South African Veterans, submissions by Major General Griesbach and Duncan Stuart.  
 Veterans of the North West Rebellion, submission by Mr. T. L. Church, M.P.  
 Canadian Legion, Prince Edward Island.

Representatives of the Department of Pensions and National Health, the Canadian Pension Commission, the Pension Appeal Court, the Veterans' Bureau, the War Veterans' Allowance Committee and Mr. G. D. Finlayson, Superintendent of Insurance, were in attendance.

The information given to your committee by the representatives of the veteran organizations and of the branches of the Government Service was found to be invaluable and afforded the greatest assistance to your committee in arriving at certain definite conclusions with reference to the matters and problems which had been referred for its consideration.

It is not necessary to set forth in detail the many suggestions which were submitted, nor to state the reasons why some of these, after full consideration, did not meet with the approval of your committee. Decision was reached in regard to these matters only after full discussion and careful deliberation. There were three distinct branches of enquiry represented by the three Bills which were referred to your committee, Nos. 26, 27 and 28, covering amendments to the Pension Act, amendments to the War Veterans' Allowance Act and the formation of a commission to assist towards the employment of former members of the forces. For the convenience of Parliament, the Bills, as amended, have been reprinted.

#### BILL 26—AMENDMENTS TO THE PENSION ACT

The draft Bill submitted to your committee has been revised in many respects, to conform with the conclusions arrived at and the recommendations consequent thereupon which your committee has deemed it advisable to make.

The proposal that the Pension Appeal Court should be merged with the Canadian Pension Commission, was not approved, it being considered that the former body should continue as a separate entity. The Bill as now submitted proposes certain limitations and confers certain new benefits. It simplifies the

procedure in connection with the presentation of applications for pension and makes provision for a more thorough preparation of claims. The following are the principal features of the amended Bill, as recommended by your committee.

1. The definition of "improper conduct" is changed, to differentiate between acts of commission and acts of omission, so that a member of the forces whose wounds were merely the result of negligence will not be precluded from receiving pension.

2. Additional *ad hoc* Commissioners are provided for, so that the Canadian Pension Commission may be able to deal more rapidly with applications before it.

3. In order to ensure uniformity of direction in connection with administration, the staff of the Commission and that of the Department are amalgamated, subject to the provision that the Chairman of the Commission shall have control over the duties to be performed by the staff assigned to him.

4. The jurisdiction of the Commission in connection with the award, increase, decrease, suspension or cancellation of pension is made more definite.

5. Representations were made to your Committee that where a pension had been awarded in error and there had been no fraud or misrepresentation on the part of the applicant, if such pension had been paid for a number of years, the award should not be disturbed. An amendment to this effect is included.

6. Provision is made for a quorum of the Commission to hear cases, when necessary, outside of Canada.

7. The personnel of the Pension Appeal Court is increased to four, by adding a duly qualified physician or surgeon of ten years' standing. It is now provided that on an appeal by the Crown to the Court, against a decision of a quorum of the Commission favourable to an applicant, the decision of the Court must be unanimous in favour of the Crown or the appeal will stand dismissed. Provision is also made for the seconding of members of the Commission to serve on the Pension Appeal Court.

8. In view of the fact that it is now nearly eighteen years since the armistice and fifteen years since the official declaration of Peace, it is recommended that a time limit for applications for disability pensions be set; such time limit, for those who did not serve in a theatre of actual war, to be the 1st July, 1936, and for those who did so serve, the 1st January, 1940, provided that with regard to the latter, the Commission be empowered, in its discretion, to grant leave to have an application entertained after that date.

9. By the amending Act of 1932-33, it was provided that no additional pension should be awarded or payable in respect of a child born on or after the 1st May, 1933, or a daughter or other person employed as a housekeeper, if the duties were assumed on or after that date, or a wife, when marriage took place on or after that date. Amendments are now introduced slightly modifying these prohibitions, whereby additional pension can be paid in respect of a daughter or other person employed as a housekeeper who assumes the care of the minor children either of a disability pensioner or of a widow, so long as additional pension is payable in respect of such children, and whereby in the event of a pensioner marrying his housekeeper or other person who assumes the care of the children, or changes his housekeeper after the date mentioned, the additional pension may be continued.

10. Under the amendments of 1930, a pension could no longer be commuted and provision was made for restoration of those already commuted. Nearly all of those restorations having taken place, the sections which were rendered inoperative by the Act of 1930 are now repealed and one section is substituted therefor. Under it, retroactivation is limited to six months.

11. The limitation of the time during which a retroactive pension should be payable was a matter on which various opinions were expressed. It was, however, felt that there should be a reasonable limit and, therefore, discretionary powers are granted to the Commission, under which pension may be payable

for a period prior to its award not exceeding twelve to eighteen months, except in certain cases in which a slightly longer period may be covered.

12. The suggestion that, when a blind pensioner in receipt of attendance allowance enters hospital, such allowance should not be discontinued, was approved, and provision for its continuation is made.

13. The section of the Act under which a widow's pension can be awarded should her husband, who was a pensioner, in receipt of eighty per cent to one hundred per cent for a period not exceeding ten years, die from a non-pensionable disability, has been amended by removing the time limit of ten years. This is now similar to the provision respecting a pensioner's children, which was amended in 1928, by removing the time limit.

14. The procedure respecting application for pension has been re-written. Under it, the applicant will be able to present his claim twice only to the Commission. Before the second submission, he will be furnished with a summary of all available evidence by the Veterans' Bureau. All disabilities in respect of which he desires to claim pension must be before the Commission at the second hearing. This will ensure full consideration by the Commission before the case goes to a quorum. Time limits have been imposed, during which notice must be given or action taken by the applicant, but discretionary powers have been vested in the Commission to extend these time limits where proper cause for the non-completion of the case is shown.

#### BILL NO. 27, AMENDMENTS TO THE WAR VETERANS' ALLOWANCE ACT

The draft Bill submitted to your Committee has been revised in several respects to conform with the recommendations which your Committee has deemed it advisable to make. The following are the principal features of the amended Bill as recommended by your Committee:—

1. It is provided that the administrative body shall be named the War Veterans' Allowance Board instead of the War Veterans' Allowance Committee, and the necessary provisions are made for the composition of the Board and the continuance as members of the Board of the present members of the Committee.

2. The powers of the Board have been more clearly defined.

3. The most important amendment recommended by your Committee is that which is contained in Section 3 of the Bill. Most of the discussion on this Bill was devoted to this amendment. The Act at present makes provision, subject to certain qualifications, for two classes of veterans—(a) Those who have attained the age of 60 years, and (b) Those who not having attained the age of 60 years are permanently unemployable by reason of physical or mental disability.

Your Committee's attention has been drawn to the border line cases between these two classes: veterans who are not quite 60 and have insufficient disability from a medical standpoint to classify them as "permanently unemployable." This class was referred to by the Hyndman Committee, and the War Veterans' Allowance Committee has also been impressed with its existence.

Your Committee, after careful consideration, decided that it would be unwise to lower the age of entitlement generally for all veterans. General satisfaction with regard to this Act and its administration during the six years of its operation was expressed by the representatives of the various organizations that appeared before your Committee, and your Committee is reluctant to recommend any far-reaching change in the existing legislation that would tend to change its character. Your Committee, however, did decide to recommend that provision should be made for the border line cases above referred to, confining their recommendation in this respect to veterans between the ages of 55 and 60 who served in the theatre of actual war.



On this section of the proposed Bill there was a division of opinion as to the extent to which the amendment should go but, for the sake of unanimity, the amendment as contained in Section 3 of the Bill was approved, without prejudice to the right of members of the Committee not wholly satisfied with the amendment to express their views without being limited by reason of the qualified approval given thereto.

Your Committee is also of the opinion that in view of the general purpose of the War Veterans' Allowance Act decisions under the terms "permanently unemployable by reason of physical or mental disability" contained in Section 4 of the Act should not be based exclusively upon medical opinion but that these terms should receive a broad interpretation.

Your Committee also recommends that the Veterans' Assistance Commission to be appointed under the provisions of Bill No. 28 make an investigation into the position of those veterans under the age of 55 years who are by reason of disability, pre-aging and general unfitness, incapable of maintaining themselves.

4. Exemption in calculating the income of a recipient of a War Veteran's Allowance have been extended to include helplessness or attendants' allowance granted under the provisions of the Pension Act, as well as the clothing allowance which was previously exempted.

5. The Bill gives the Board discretion, subject to certain limitations, to pay a part of the allowance to the dependents of any recipient who is undergoing imprisonment as well as full discretion to pay a part of the allowance to the dependents of any recipient who is maintained at the expense of the Department as an inmate of any institution.

BILL NO. 28, AN ACT TO ASSIST TOWARDS THE EMPLOYMENT OF FORMER  
MEMBERS OF THE FORCES

Throughout the course of the Enquiry, the intensity of unemployment among veterans was stressed by the various witnesses who saw in the implementation of the legislation proposed by Bill 28, a means whereby the opportunities of employment of able, as well as partially disabled, men might be considerably increased.

At the outset it was apparent that up to date, accurate statistics regarding the number of unemployed veterans in Canada were not available. Your Committee, therefore, felt that the first charge to be imposed on the Veterans' Assistance Commission should be a direction to obtain such information and, having done so, to classify such persons into groups according to their abilities to engage in different forms of work. Your Committee was also of the opinion that such a survey should not be confined to former members of the Canadian forces in the Great War.

Accordingly, your Committee recommends that the definition of veteran in Bill 28 be amended to include a veteran of "any other of His Majesty's Forces or of any of the Forces of His Majesty's Allies during the Great War" and that the first duty of the Commission under Section 6 of the Bill be to "carry out as soon as possible an investigation to ascertain the extent of unemployment among veterans in Canada and classify those who are unemployed according to physical and mental capacity or incapacity to undertake gainful employment in restricted and unrestricted occupations and in any other categories which, after the investigation, the Commission may consider applicable." Having received from all sides repeated assurances of co-operation of the veterans' bodies and other persons to assist in securing necessary information and of implementing any projects decided upon, your Committee recommend that provision be made in Section 7 of the Bill for the appointment of honorary local committees composed of persons resident in any locality.

As representations were made that the existing facilities for the care and maintenance of unemployed veterans were inadequate in some localities, your Committee would further recommend that the Commission, while conducting this survey into the extent of unemployment, should investigate the facilities available throughout Canada for the care and maintenance of veterans and should make such suggestions and recommendations as may be deemed advisable.

To ensure that the progress of the Commission's activities, both in connection with its surveys and application of approved projects, be made known to the Government, your Committee would also recommend that the Commission be required to submit from time to time interim reports on matters arising out of the Act.

#### GENERAL

Strong representations were made that ex-members of the Imperial Forces now residing in Canada should be granted all the benefits accorded under Canadian legislation to those who served in the Canadian Forces; also that Imperial pensioners, particularly pre-war residents of Canada, should be eligible for Class 2 treatment, that is treatment for non-pensionable disabilities, under the Department, similarly to Canadian pensioners. It was suggested that these matters be discussed by the Chairman with the British Ministry of Pensions and an effort made to get the Imperial authorities to assume the cost.

Your Committee as asked to recommend that the question of reparations to prisoners of war be reopened. This being a matter which it was considered did not come within the scope of the powers of your Committee, it was decided to refer it to the Government for consideration.

A proposal was made that the Pension Act should be amended so that those who are suffering from mental, psychopathic or neuropathic disabilities, although such are considered to be of a congenital nature, might be pensionable to the full extent of such disabilities if there had been service in the theatre of actual war and aggravation of such disabilities had been shown. It was decided to recommend that the Minister of Pensions and National Health should convene a Board of psychiatrists and neurologists to discuss the incidence of these conditions and the treatment necessary therefor.

A printed copy of the evidence taken before your Committee is submitted herewith.

All of which is respectfully submitted.

C. G. POWER,  
*Chairman.*

## MINUTES OF PROCEEDINGS

TUESDAY, May 26th, 1936.

4.00 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4.00 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Macdonald (*Brantford City*), MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Reid and Tucker.—15.

The Committee, in camera, considered Bill No. 28, An Act to assist towards the employment of former Members of the Forces. After discussion of certain amendments proposed it was decided to defer further consideration of it until to-morrow.

The Committee then considered Bill No. 27, An Act to amend the War Veterans' Allowance Act.

Clause 1—Adopted,

Clause 2—Adopted,

Clause 3—An amendment was proposed to this Clause, and after lengthy discussion thereon, further consideration was postponed until next meeting.

The Chairman informed the Committee that he had received a letter from Mr. Justice Taylor, Chairman of the Canadian Pension Commission, asking that the following corrections be made in his evidence.

Page	Line	
455	39	answer "Always, if they are requested" should read "Always if they so request."
464	6	the word "not" should be deleted.
468	5	the word "refuse" should be "review".

In all cases where he referred to Medical Officers of the Commission at the District Headquarters he should have referred to them as "Medical Examiners." In odd places he called them "Medical Advisers". The latter is the term applied to the Medical Staff at Head Office only.

*Ordered*,—That the above corrections be made.

The Committee adjourned at 6.10 p.m. to meet again Wednesday, May 27th, at 11.00 o'clock, a.m.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF PROCEEDINGS

WEDNESDAY, May 27, 1936.

11.00 a.m.

The Special Committee on Pensions and Returned Soldiers' Problems met (in camera) this day at 11.00 o'clock, a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs: Beaubier, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, MacDonald (*Brantford City*), MacLean (*Prince*), MacNeil, Mulock, Mutch, Power (Hon. C. G.), Reid and Tucker.—14.

Bill No. 28, an Act to assist towards the Employment of former Members of the Forces, together with proposed amendments thereto, was considered.

Bill No. 27, an Act to amend the War Veterans' Allowance Act, together with the proposed amendments thereto, was considered.

Mr. W. S. Woods, President of the War Veterans' Allowance Committee, was recalled, examined and retired.

The evidence taken was not printed.

The Committee adjourned at 1.00 o'clock, p.m. to meet again Thursday, May 28th, at 11.00 o'clock a.m.

J. P. DOYLE,

*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, May 28, 1936.

11.00 a.m.

The Special Committee on Pensions and Returned Soldiers' Problems met (in camera) this day at 11.00 o'clock, a.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs: Beaubier, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Isnor, Macdonald (*Brantford City*), MacLean (*Prince*), MacNeil, McLean (*Melfort*), Mutch, Power (Hon. C. G.), Quelch, Reid and Tucker.—18.

Bill No. 26, an Act to amend the Pension Act, together with proposed amendments thereto, was considered.

Mr. E. H. Scammell, Secretary of the Department of Pensions and National Health, and Mr. H. A. Bridges of the Pension Council, Department of Pensions and National Health, were called, examined and retired.

The Committee adjourned at 1.00 o'clock, p.m. to meet again this afternoon at 4.00 o'clock.

4.00 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met (in camera) this day at 4.00 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs: Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Macdonald (*Brantford City*), MacNeil, Marshall, Mutch, Power (Hon. C. G.), Quelch, Reid, Streight and Tucker.—15.

Mr. E. H. Scammell and Mr. H. A. Bridges were recalled, and examined.

Bill No. 26, an Act to amend the Pension Act, and proposed amendments thereto, were further considered.

Witnesses retired and the Committee adjourned at 5.45 o'clock to meet again Wednesday, June 3rd, at 4.00 o'clock, p.m.

J. P. DOYLE,

*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

WEDNESDAY, June 3, 1936.

4.00 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met (in camera) this day at 4.00 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs: Betts, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Isnor, Lapointe (*Matapédia-Matane*), Lennard, Macdonald (*Brantford City*), MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), Streight, Thorson, Tremblay and Tucker.—25.

Mr. E. H. Scammell and Mr. H. A. Bridges were recalled and examined.

Bill No. 28, an Act to assist towards the Employment of former Members of the Forces, was considered, amended, adopted as amended and ordered to be reported.

*Ordered*,—That this Bill, as amended, be reprinted.

Bill No. 27, an Act to amend the War Veterans' Allowance Act was considered.

At 6.00 o'clock p.m. the witnesses retired and the Committee adjourned to meet again at 4.00 o'clock, p.m. on June 4th.

J. P. DOYLE,

*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, June 4th, 1936.

4.00 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met (in camera) this day at 4.00 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Beaubien, Betts, Brooks, Cameron (*Hastings South*), Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Lapointe (*Matapedia-Matane*), Lennard, MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Streight, Thorson, Tremblay and Tucker.—23.

Bill No. 26,—An Act to amend the Pension Act, was considered.

The Committee adjourned at 6.00 o'clock p.m. to meet again at 8.00 o'clock p.m. this day.

THURSDAY, June 4th, 1936.

8.00 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met (in camera) this day at 8.00 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Betts, Brooks, Emmerson, Fiset (Sir Eugène), Green, Hamilton, Lennard, MacNeil, McLean (*Melfort*), Mulock, Power (Hon. C. G.), Reid, Streight, Thorson, Tremblay, Tucker and Wilton.—17.

Bill 26,—An Act to amend the Pension Act, was further considered.

The Committee adjourned at 11.00 p.m. to meet again Friday, June 5th, at 4.00 o'clock, p.m.

J. P. DOYLE,  
*Clerk of the Committee.*

FRIDAY, June 5th, 1936.

The Special Committee on Pensions and Returned Soldiers' Problems met (in camera) this day at 4.00 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Betts, Brooks, Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Isnor, Lennard, MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid and Tucker.—18.

Bill No. 26,—An Act to amend the Pension Act, was further considered and adopted. A reprint of said bill as amended, was ordered.

The Committee adjourned at 5.45 o'clock p.m. to meet again Monday, June 8th, at 4.00 o'clock, p.m.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF PROCEEDINGS

MONDAY, June 8th, 1936.

4 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met (in camera) this day at 4.00 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Betts, Brooks, Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Isnor, Lennard, MacNeil, McLean (*Melfort*), Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), and Thorson.—19.

Bill No 27,—An Act to amend the War Veterans' Allowance Act, was further considered.

This Bill was adopted with amendments and ordered to be reprinted as amended, and reported.

The Committee then proceeded to consider a final report.

The Committee adjourned at 6.00 o'clock, to meet again at 8.00 o'clock p.m. this day.

MONDAY, June 8th, 1936.

8.00 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 8.00 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present:—Messrs. Betts, Brooks, Emmerson, Fiset (Sir Eugène), Green, Hamilton, Hartigan, Isnor, MacNeil, Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Thorson and Tucker.—17.

A brief submitted by Mr. Maybank, M.P. (*Winnipeg South Centre*), in behalf of more than 2,000 veterans of Winnipeg, was ordered printed as Appendix "A" to to-day's evidence.

Mr. A. J. Dixon, Department of Pensions and National Health, was called and examined regarding P.C. 91, which is the Order in Council dealing with veterans' Hospital treatment. Witness retired.

Dr. F. W. Blakeman, in charge of Foreign Relations, medical section, Department of Pensions and National Health, was called, examined and retired.

Mr. E. H. Scammell, Secretary of the Department of Pensions and National Health, was in attendance.

Two cases submitted by Mr. Gilman, of the Army and Navy Veterans' Association, were discussed in camera.

The Committee (in camera) resumed consideration of a final report.

The Committee adjourned at 10.00 o'clock, p.m. to meet again Wednesday, June 10th, at 4.00 o'clock, p.m.

J. P. DOYLE,  
Clerk of the Committee.

## MINUTES OF PROCEEDINGS

WEDNESDAY, June 10, 1936.

4 p.m.

The Special Committee on Pensions and Returned Soldiers' Problems met this day at 4 o'clock, p.m. Hon. C. G. Power, the Chairman, presided.

The following members were present: Messrs. Brooks, Emmerson, Fiset (Sir Eugène), Green, Isnor, MacNeil, Marshall, Mulock, Mutch, Power (Hon. C. G.), Quelch, Reid, Ross (*Middlesex East*), Streight, Thorson and Tucker.—16.

The Third Report was considered and adopted. •

The Fourth and Final Report was considered and adopted.

On motion of Mr. Isnor, seconded by Mr. Mulock, it was unanimously resolved,—That a vote of thanks be tendered the Chairman for the courteous and efficient conduct of the proceedings of the committee.

On motion of Mr. Mutch, seconded by Mr. Thorson, it was resolved,—That a vote of thanks be tendered the clerk of the committee for the manner in which he performed his duties.

The committee adjourned at 5 o'clock, p.m.

J. P. DOYLE,  
*Clerk of the Committee.*

## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 497,

June 8, 1936.

The Special Committee appointed to inquire into Pensions and Returned Soldiers' Problems met at 8 o'clock p.m. Hon. C. G. Power, the chairman, presided.

The CHAIRMAN: Order, please, gentlemen. I believe Mr. Mutch has something to present on behalf of Mr. Maybank. What is that representation you have to make, do you wish to read it?

Mr. MUTCH: I think Mr. Maybank, the member for Winnipeg South Centre, spoke to you about presenting a brief which embraces conclusions drawn from representations made by somewhere in the vicinity of 2,000 veterans in the city of Winnipeg. Unfortunately, he is not able to be present to-night and he asked me if I would present this for him. If you would like I will read it for you, but with your consent I would suggest that it be printed in the minutes.

The CHAIRMAN: That will be all right. The statement presented by Mr. Maybank will be printed in our proceedings.

(Brief presented by R. Maybank, M.P., on behalf of Winnipeg veterans entered as appendix A hereto.)

The CHAIRMAN: Well, the next thing we have is a statement which has been prepared by Mr. Dixon. Do you want that filed in answer to your questions, Mr. MacNeil, or do you want it read?

Mr. MACNEIL: I would like to know in a general way before it is filed what it means, if we may?

The CHAIRMAN: All right, call Mr. Dixon.

A. J. DIXON, Department of Pensions and National Health, called:

WITNESS: Under "An Act respecting the Department of Pensions and National Health," the minister is charged with the management and control of all such matters as are assigned to him by the Governor in Council relating to the care, treatment or re-establishment of all persons who served with the naval, military or air forces of Canada since August 1, 1914.

The Act also provides that, subject to the approval of the Governor in Council, the minister may make such regulations, from time to time, as he may deem necessary and advisable, dealing with matters under his control, among which several are included in the following:—

Regulations:—

- (1) for the control and management of any hospital or other institution used for the care or treatment of ex-soldiers and of the persons undergoing care or treatment therein;
- (2) for prescribing the payments, if any, to be made to persons or their dependents whenever such persons are being cared for by medical treatment or otherwise;
- (3) for the receipt and retention of any moneys held or payable by the commission or any other authority, person or persons on behalf of



any persons or their dependents whenever such persons are being or have been cared for by medical treatment or otherwise and for the disposal of such moneys to such persons or their dependents or as may be deemed expedient;

- (4) for the treatment of former members of the forces classified as wholly incurable or chronically recurrent cases needing institutional care.

Since the formation of the department in 1918, numerous regulations have been issued. Some have been cancelled, others have been amended, new ones have been issued, changes being made to meet the situation and requirements of the time and corresponding with amendments to the Pension Act. For example, Order in Council P.C. 580, dated March 10, 1922, cancelled fifteen Orders in Council. It in turn was amended six times between 1922 and 1928 and several supplementary Orders in Council affecting veterans were also passed during the same period. However, notwithstanding the enactment of new legislation, further amendments to the Pension Act and the fact that with the increasing age of veterans there have been consequential changes in treatment requirements and necessity for care, no changes were made in the regulations between 1928 and 1936.

In January last the Governor in Council, on the recommendation of the Minister, rescinded the regulations established in 1928 by P.C. 1842 and approved, with effect from March 1, 1936, the substitution of the regulations contained in Order in Council P.C. 91, copies of which were distributed to members of the committee on April 24.

On May 20 Mr. MacNeil submitted a list of questions relating to P.C. 91, concerning which the chairman, at Mr. MacNeil's request, agreed to provide information. This information is as follows:—

INFORMATION REGARDING ORDER IN COUNCIL P.C. 91 REQUESTED BY C. G. MACNEIL, M.P., BEFORE THE SPECIAL COMMITTEE ON PENSIONS AND RETURNED SOLDIERS' PROBLEMS.

(1) Is the basis of eligibility for Class 1 treatment restricted in any way under P.C. 91? If so, to what extent?

The basis of eligibility for Class 1 treatment has always been the condition that hospital treatment is required for a disability attributable to service, or in other words, a pensionable disability. A person who required such treatment would be eligible under Order in Council P.C. 91 as he was under P.C. 1842.

*By Mr. MacNeil:*

Q. May I ask a question there. P.C. 91 says we may bring in departmental medical authority. That phrasing has been altered to read "active remedial treatment."—A. This answer says that any person who was eligible for class one treatment, that is required treatment for his pensionable disability, would be so eligible under P.C. 91.

Q. What do you mean by departmental medical authority? Who will determine whether they will be eligible or not, under the Order in Council?—A. We come to that in the fifth question, if I may be permitted to say so.

The CHAIRMAN: Go ahead.

WITNESS: (2) Are the classes hitherto entitled to class one treatment or any other form of care or treatment, limited in any degree under P.C. 91? If so, to what extent?

Order in Council P.C. 91 actually enlarges the scope of the department in the matter of the provision of treatment and care. While one of the conditions governing admissions to Classes 2 and 4, viz.: that the applicant must be in receipt of pension, or if not in receipt of pension, saw service in a theatre of actual war and was at some time in receipt of pension, may render ineligible for

[Mr. A. J. Dixon.]

admission under these classes a few veterans who served in Canada and England only and who have no assessable pensionable disability, a much larger number of veterans are made eligible by a widening of other governing factors. For example, a veteran could not be admitted under Class 4 unless his disability prevented him permanently from obtaining or continuing remunerative work and thereby earning sufficient to maintain himself and who, as a result of such conditions, had or would become a public charge. Under P.C. 91 either a permanently disabled or a temporarily disabled veteran may be admitted. In addition to departmental hospitals, he may now be admitted to other institutions. Heretofore a 100% pensioner could be disqualified under the Clause reading "who is or will become a public charge." Under P.C. 91 he may now qualify within the section "is unable to provide suitable domiciliary care at his own expense." In addition it will now be possible to admit a rapidly increasing number of aging pensioners who may only require care and shelter for short periods, particularly during the winter months. These were previously debarred because they did not qualify under the condition "permanently disabled."

The conditions of admission to Class 5 are also broadened so that it is now permissible to admit any pensioner who applies for treatment in order that he may be examined and his treatment requirements determined. If it is found that he required treatment for his pensionable disability he will be transferred to Class 1, but if he does not, the Department will nevertheless be permitted to complete the treatment in Class 5 or some other Class.

(3) Does P.C. 91 restrict in any way the established right of a Class 1 patient to receive the full amount of compensation for himself and dependents as laid down in the Schedule? If so, give particulars.

Order in Council P.C. 1842 or any previous authority did not establish the right of a patient to receive the full amount of compensation provided for in the schedule. Under P.C. 1842, Clause 18, "The department had power to make regulations respecting... the compensation or allowances payable to a former member of the forces while undergoing treatment and the allowances payable to or in respect of his dependents, and respecting deductions from or cancellations of his or their compensation or allowances for any purpose..."

P.C. 91 contains the same provision in the following clause:—

The additional allowance for a dependent is maximum. A lesser allowance may be awarded in the discretion of the department.

Except in those cases where unusual circumstances did not warrant the payment of the maximum allowance, the maximum allowance was paid. P.C. 91 will enable this practice to be continued.

*By Mr. MacNeil:*

Q. In what cases do you exercise discretion as to a reduction from the maximum?—A. Take the case of a widower with a child who is a ward of the Children's Aid Society. He, previous to his admission to the hospital, was paying that society \$15 a month. We would pay him as a single man and give the society the equivalent of the cost of the child's maintenance prior to his admission, \$15. Otherwise, if the maximum provided in the schedule were credited, it would be \$75 a month, of which the department, applying the division in the schedule, would give him only \$20 and set up a credit of \$55 for the child with the commission, more or less to the exclusion of the patient. He would have nothing when he came out.

Q. A married man with a dependent in Class 1 receives the maximum under the schedule?—A. Yes.

Q. Not as of right?—A. Not as of right.

Q. The dependent's allowance is not as of right?—A. No.

Q. Was it not formerly a matter of right as under the Pensions' Act—the dependent's allowance?—A. I do not think it has ever been so considered.

Q. A man's dependency had to be proven in all cases?—A. If a person is a dependent under the Pension Act, ipso facto he or she is a dependent under the department's regulations.

*By the Chairman:*

Q. Do we not go a step further?—A. Yes.

Q. We now go a step further?—A. Yes. That is a provision in 91, children born and marriages occurring after May 1, 1933.

The CHAIRMAN: They specifically keep these in. They are barred under the Pension Act, but we keep them in for paying allowances under 91.

*Witness:*

(4) Does P.C. 91 restrict in any way the established principle that wives and children of Class 1 patients will receive the allowances as set out in the schedule, as of right, irrespective of actual maintenance (except in cases of legal separation)?

Order in Council P.C. 1842 or any previous authority did not establish the right of the patient to receive the full amount of compensation provided for in the schedule. P.C. 91 deprives wives and children of no benefits to which they formerly might be considered eligible. If they are regarded as dependents under the Pension Act they will be so regarded under the Order in Council. In addition the Order in Council provides that wives married and children born after May 1st, 1933, may be considered as dependents. The maximum allowance payable for a wife and child will be paid except in cases of separation where the dependents are not living with and are not fully maintained. In such cases the department will pay to or on behalf of the dependents an amount equal to the pensioner's contributions or the maximum hospital allowance, whichever is the lesser.

(5) Does the use of the term "active remedial treatment" as used in P.C. 91 carry with it any restrictive effect, either as to the right to receive hospitalization as Class 1 patient or as to the right to continued and necessary palliative hospital treatment as Class 1 patient, when a cure is known to be impossible?

Under Order in Council P.C. 1842 admission to hospital was merely subject to the condition that "the pensioner required treatment". It did not indicate the type of treatment which should be considered to necessitate admission to hospital. The phrase "active remedial treatment" has been substituted for the word "treatment" to insure that persons requiring "treatment" and not "domiciliary care or observation" are placed in the appropriate classification. The use of this term will not in any way restrict the provision of treatment under Class 1, where hospital treatment is required for a disability attributable to service. The purpose in qualifying the word "treatment" by the addition of the words "active remedial" is to distinguish certain classes of cases suffering from acute conditions, including terminal cases, which would require active remedial measures, from other classes to which a person may be admitted when material benefit is not to be expected from active treatment measures, but domiciliary care is desired. It merely differentiates between those who require active treatment and those who require care. Does that answer your previous question?

*By Mr. MacNeil:*

Q. What do you do with those who require only domiciliary care?—A. They come under class 4, as heretofore under P.C. 1842.

Q. And as such they receive pay and allowances?—A. No; he did not before.

[Mr. A. J. Dixon.]



Q. He received pension?—A. No. A portion of his pension might be applied towards cost of maintenance, but \$10 a month had to be set aside to provide him with comforts and clothing.

Q. What about terminal cases then?—A. They will not be affected by this Order in Council, according to this statement, Mr. MacNeil. (6) Will the term "active remedial treatment" adversely affect existing rights to treatment or care under any authorized classes? If so, to what extent? The use of the term "active remedial treatment" instead of the previous phrase "treatment" will not in any way restrict the admission to hospital nor the provision of treatment of any veteran who would have qualified under P.C. 1842 under the phrase "required treatment or care."

*By Sir Eugène Fiset:*

Q. Have any of those payments been queried by the auditor general?—A. None that I know of sir.

The CHAIRMAN: I do not think so.

*By Mr. MacNeil:*

Q. Take the case of a man who has something wrong with him for which nothing can be done but an occasional trip to hospital helps to tone him up and makes his pain a little easier to bear, and makes things a little more easy for him. Can you say anything about that?—A. I am afraid I am not qualified sir, to answer that. I can only speak generally, not being a medical man.

Sir EUGÈNE FISET: What is that again?

Mr. MACNEIL: I am speaking of cases for whom very little can be done but an occasional trip to hospital tones them up, particularly men suffering from a great deal of pain.

Sir EUGÈNE FISET: They are never refused admittance under those conditions. I have known cases who have gone to the hospital two or three times a year.

Mr. MACNEIL: I had a case recently of a man who wanted treatment. If he received treatment for a disability that was not pensionable he felt he could handle a job this summer. The communication he received from the department was more or less along the lines of the order in council. Active remedial treatment would not substantially meet his condition. He stated that on occasions previously he could go in and get a little electrical treatment and build himself up to where he could handle a job. Such cases are excluded under this treatment.

WITNESS: This would not affect the occasional out-patient treatment at all.

Mr. MACNEIL: I am speaking of those in the outlying districts.

Mr. MUTCH: It is a question of the departmental officer. If he is a stickler he won't get treatment.

Mr. MACNEIL: However, we have a clear understanding of the interpretation. That is what we desire.

Mr. MUTCH: These questions and answers will be included in the record?

The CHAIRMAN: Yes.

WITNESS: (7) Does the frequent use of the term "departmental medical authority" as contained in P.C. 91 indicate any subordination of the authority of the department to the Director of Medical Services or his staff? The use of the term "departmental medical authority" does not indicate any subordination of the authority of the department to the Director of Medical Services or his staff. In co-ordinating and directing treatment in the various districts, arrangements must be centralized under the Director of Medical Services, who is responsible through the Deputy Minister to the Minister. The recommenda-

tions of the Director of Medical Services are at all times subject to the approval of the Deputy Minister.

The definition of "departmental medical authority" is identical with that which appears in 1842 as a definition of "medical authority." This same definition was contained in the five orders in council which preceded P.C. 1842 and were in effect from 1922 to the present.

The repeated use of the term under different classes to which persons may be admitted for treatment is for the purpose of clearly indicating that the department shall determine whether admission under any class is required, in those cases where treatment is to be afforded at the expense of the department and not at the expense of some other department or agency.

(8) Does P.C. 91 limit in any way the basis of eligibility to have treatment or care or, when admitted, the benefits accruing, in respect to other classes than class 1. If so, give particulars? P.C. 91 does not limit in any way the basis of eligibility of a veteran to receive treatment or care. As stated under 2 above, P.C. 91 actually enlarges the scope of the department in the matter of the provision of treatment and care.

With respect to the benefits accruing following admission in classes other than class 1, there are restrictions with regard to the payment of hospital allowance and the rate of hospital allowance in some cases.

Under class 3 (a) hospital allowance is limited to the equivalent of the pension paid at the time of admission if the patient has no dependents.

Veterans admitted to hospital for examination or observation at their own request under Class 5 (b) would, under order in council P.C. 1842 have been classified, class 1, on admission and would in all cases have been paid hospital allowance. Under P.C. 91 it will not be paid if it is found as a result of examination or observation that the veteran was not entitled to pension or if a pensioner was not entitled to a higher assessment of his pension. Similarly under 5 (a) where application is made for treatment and there is uncertainty as to the need for treatment or uncertainty as to the disability for which treatment is required, the veteran may be admitted to hospital. He will be awarded hospital allowance if his claim is substantiated. Previously, under 1842, such a veteran might not be admitted to hospital unless it was clearly indicated that treatment for the pensionable disability was required. He may now be admitted without definite evidence of treatment requirements but if it is subsequently found that treatment for a pensionable disability is required, treatment with hospital allowance will be granted.

In treatment only cases, that is, those cases where hospital allowance is not payable and a veteran has no pension or other income, the department provides an allowance for comfort of \$3.50. This is 50 cents per month in excess of that payable under 1842. Clothing up to \$4.50 per month may be provided. The amount previously fixed was \$7 per month. The grant for clothing was decreased by reason of the fact that \$4.50 per month has been found to be sufficient to meet the cost of clothing required by persons maintained in institutions.

The new schedule reduces the monthly hospital allowance applicable to a sergeant or a higher rank to the equivalent of a 100 per cent pension less \$30, provided, however, that in no case shall the hospital allowance be less than that payable to a private under P.C. 1842.

The rates previously applied were more or less based on the amount of the pay and allowances which the soldier or officer and his dependents received while the soldier or officer was serving.

By this amendment the rates for the higher ranks, particularly officers, are materially reduced and now are based on the 100 per cent pension rate applicable to such higher ranks, less a deduction of \$30 per month. The additional allowance for the dependents of such higher ranks are, however, equal to the additional pension payable under the Pension Act.

[Mr. A. J. Dixon.]

The CHAIRMAN: Nothing remains except that you want to know something about the men in the United States?

Mr. MACNEIL: Yes, the treatment they get there.

Mr. GREEN: Can Mr. Dixon tell us anything about what it would cost to give hospital treatment to Canadians who were in the Air Force and the Inland Water Transport under class 2 treatment?

The CHAIRMAN: Did you go into those figures?

WITNESS: If the department knew the number of men and their pension it would be worked out immediately because we know what it would cost to treat a patient per diem in an institution.

Mr. REID: Was anything said about the small pensioner out in British Columbia who is receiving \$3.75? He may be suffering from a very serious disability for which he is not pensionable. He is receiving \$3.75 pension, but there is sometimes great difficulty in obtaining the medicine. This class of man claims he would rather receive free medicine than the \$3.75, as the medicine sometimes costs \$6 or \$7 a month.

The CHAIRMAN: Mr. Scammell says they do not provide medicine in cases like that.

Mr. MACNEIL: May I ask a question in regard to pension relief as it is administered in outlying districts. Quite a number of cases have been brought to my attention where a man has been given a low rate, and I understand it is the intention of the department to bring their relief up to the standard prevailing in that district. Now, in unorganized districts the rates are very low, and some of those pensioners cannot maintain themselves on the allowances given.

Mr. SCAMMELL: In that case, Mr. MacNeil, unemployment assistance is raised to our basic rate. Of course, in considering that the department takes into account the circumstances in which the man is living. He may be living on a farm, he may have certain food products free, he may have his rent free, so that the rate is bound to vary; but that is the general principle.

Mr. MUTCH: I do not know whether it applies to any other place or not, but in Winnipeg we have a situation where these men get relief from the department with respect to the issuing of clothing, and it is rather a sore touch. The situation is that they are issued actual clothing, and there is more trouble to get satisfactory clothing than to earn the money to get them, if there were any money to earn. First of all, the man goes and gets an order, then he goes down and gets a parcel which may contain, for instance, a pair of shoes which he takes home for some of his family and the shoes do not fit, and he has to go through the proceeding all over again. There is no opportunity for fitting, and sometimes they get pretty poor service. There are no vouchers there for those people.

The CHAIRMAN: In Winnipeg they are issued through the city facilities.

Mr. MUTCH: Is that something recent?

The CHAIRMAN: That has been done right along.

Mr. MUTCH: Up to the last communication I had they were complaining that they were not on the same basis. If they could get a voucher they could go and get something for the value of it, and I suggest to the department that it would be not only more satisfactory but more economical to issue clothing vouchers.

The CHAIRMAN: Our difficulty would be that we would have to buy immense stores of clothing to distribute all over Canada. It would be a terrible job. We have to use the facilities at hand. In some places we make use of the Red Cross, and in other places we make use of service agencies, welfare agencies. In other places we see if we can do something with the municipalities and pay them.

Mr. MUTCH: Why cannot you do the same as the municipalities, give the man a voucher and let him go to the store and get what he wants?



The CHAIRMAN: That is the system in Winnipeg.

Mr. MUTCH: Then it has recently changed

WITNESS: The investigators look into the needs of a man and make out a voucher for his requirements, and he gets what he requires through the city depot.

Mr. MUTCH: Yes, but he gets something handed to him. He cannot go on the voucher system and buy what he wants in the store.

WITNESS: Oh no; he gets his requirements through the city depot.

Mr. MUTCH: I suggest you will save money and satisfy the people better if you allow them to buy on the voucher system.

Mr. REID: With regard to Mr. MacNeil's question, I do not think it is clear that he is from British Columbia. I will give you a case in point. A very hostile crowd met me about it. I might say that what you have said is not working out in British Columbia. A German family moved in and were being taken care of by the province and dominion as transients and they were in receipt of \$31.50, paid by the provincial government and paid to the municipality. Alongside of them was a returned man, who was not on pension, and he was receiving \$9.50.

Mr. SCAMMELL: You say he was not on pension?

Mr. REID: No, he was not. He received \$9.50 in relief from the municipality. The case was put up to me as to why this man could not get more relief money. As Mr. MacNeil points out there is a very low scale in some municipalities. Some municipalities have an extremely low scale, and I know of many cases of returned men who are barely eking out a living on the scale provided by the municipalities. I would like to know if these men were eligible for a further advance. Say they were getting \$10 a month from the municipality and had three of a family and themselves?

Mr. SCAMMELL: If he is not a pensioner, the Department does not issue any unemployment assistance.

Mr. REID: It may be that was the cause in this case. If he is a pensioner, you will raise the scale up.

Mr. SCAMMELL: If he is pensioner we take over the entire relief, and the municipality steps out of the picture.

Mr. MACNEIL: I wish to point out that in some of the unorganized districts the small pensioner who is entitled to unemployment assistance may be living on a small holding and if disabled is unable to gain any supplementary income from his land. He is, perhaps, unable to cut his wood, and a deduction is made with respect to fuel. He may be unable to grow anything at the time. But it is necessary for him to retain that holding and pay taxes on that holding. It is the only home which he can furnish for himself. It is rather unfair to make those deductions in the unorganized territory with respect to fuel and supplementary food.

Mr. SCAMMELL: As far as possible the Department investigates all those cases from time to time, and the amount that is issued in such cases depends upon the report of the investigators. If you know of any special cases in which a hardship such as you indicate is taking place, I wish you would bring it to the attention of the Department.

Mr. MACNEIL: That is the trouble. It is difficult to get investigation in remote settlements on the coast, and investigations carried out under the same rules that an investigator would use in the city do not apply in the unorganized territory.

Mr. SCAMMELL: Most of the outside investigations of that nature are carried out by the staff of the Soldiers' Settlement of Canada, and they do very thoroughly know the conditions in the rural areas.

Mr. MACNEIL: I submit that the tendency is to follow the rule of the provincial administrator for that district, and that leaves the pensioner at a decided disadvantage because of his disability.

Mr. SCAMMELL: Mr. Dixon points out that it is safe to say that in almost every instance our rate is higher than the rate that man would get from the municipality in such unorganized territories.

Mr. BETTS: That is the difficulty I have met where I come from. There are small pensioners who, for some reason or other, get less relief than people who were never in the army. Can Mr. Dixon tell us how that happens?

The CHAIRMAN: Our answer is that it does not.

Mr. BETTS: Well, but it does. Mr. MacNeil has found it and I have found it.

Mr. MULOCK: Supposing it does happen, would the department correct that condition, if the matter is brought to your attention?

The CHAIRMAN: Our regulations read that we shall have a basic rate, and if the municipal rate is higher we will come up to it. Is not that so, Mr. Scammell?

Mr. SCAMMELL: That is so.

Mr. MULOCK: Is not the trouble then with regard to the variation of rates between municipalities?

Mr. SCAMMELL: Yes, it is.

The CHAIRMAN: Oh, yes, that is so; and not only that, but the municipalities change their rates constantly. It all depends on what municipal government is in. We cannot tell. A municipal council changes, and up goes the relief or down comes the relief. We established a basic rate.

Mr. MULOCK: The trouble is that in the district around Toronto there is probably the same thing that Mr. Betts has in mind, there are a whole lot of different municipalities in the outlying district and their rates for relief vary considerably; a fellow living in one municipality gets one rate, and a fellow just over the line a little gets a different rate, and that is cause for discontent.

The CHAIRMAN: Quite true.

Mr. BETTS: That cannot be helped, as long as they are paying the departmental rate they have no complaint. The complaints I get are not from London, but from Westminster Township.

*By Mr. Hamilton:*

Q. Is the rate affected by dependents?—A. We pay according to the size of the family.

Q. Bringing it up to the municipal rate?—A. Yes.

Mr. REID: What I want to say is that some of the municipalities have got a little careless in the matter, and in the case of a man in receipt of a pension we will say of \$7.50 a month who with a family would come within the category eligible for \$15 the municipality take \$7.50 saying to the man, well you get that \$7.50 as a pension and we know it.

The CHAIRMAN: If he is a pensioner the municipality has nothing to do with him.

Mr. BROOKS: That is what you have been saying for days.

The CHAIRMAN: If the man is a pensioner we pay the whole shot.

Mr. BROOKS: You say you bring him up to what the municipality is paying in relief to other parties?

WITNESS: No. To what the municipality would pay if he were not a pensioner?

The CHAIRMAN: We take him off the municipality altogether if he is a pensioner. If he gets \$7.50 and the municipal rate is \$18.75 we bring him up to that amount. We bring him up to the municipal rate.

Mr. Mutch: To the rate which he would get if they were paying it?

Mr. Scammell: Yes.

The CHAIRMAN: Our basic rate is \$18.75?

Witness: For a single man.

The CHAIRMAN: But, if the municipality pays \$20 we bring him up to \$20 and pay the whole shot.

Now, we come to the question of treatment of pensioners in the United States.

Dr. F. W. Blakeman, in charge of foreign relations, medical section, Department of Pensions and National Health, called:

The CHAIRMAN: Mr. MacNeil, you wanted information in regard to the treatment accorded to Canadian pensioners in the United States.

*By Mr. MacNeil:*

Q. I would like to know the basis under which medical treatment is extended to Canadian pensioners in the United States?—A. Treatment for pensionable disability down there is the same as it is up here.

Q. Do they get it in the States?—A. Yes. We provide treatment. We have an arrangement. We have an agreement with the United States Veterans' Administration; that is the administration that looks after all the American ex-soldiers. We have a working agreement, and they do all our work. Active remedial treatment for pension disability down there is arranged through them.

*By Mr. Isnor:*

Q. A reciprocal arrangement, is it?—A. Well, unfortunately it is no longer a reciprocal arrangement, because on July 1, 1934, the United States government terminated all treatment for their veterans for service disabilities or otherwise outside of the territorial boundaries of the States. They give no more treatment. In fact, we have to care for their men in our hospitals who are suffering from service disability and we cannot get rid of them. They are on our strength and we are supporting them.

Mr. MacNeil: I have a communication from the Army and Navy Veterans' Association addressed to the secretary of the committee referring to the case of a man named X. Apparently he was unable to secure treatment in the United States, and was required to return to Canada in order to secure treatment. Then as he was hospitalized for tuberculosis he was unable to rejoin his family in the States because of the American immigration laws.

Witness: With reference to this case and possibly others, for several years it has been the policy to bring as many of our long treatment cases back to our own hospitals as possible; that is, the cases who are living near the border and where we can arrange for their transfer to Canada without endangering their health, where they can get treatment and where there is not too much separation from their family. They have better privileges. We bring them all here. A good many of those cases are suffering from other disabilities for which we have no authority to treat them. In this case, for instance, I persuaded him. It is not a question of force at all.

Mr. MacNeil: I beg your pardon.

Witness: It was not a question of force, Mr. MacNeil, that he was brought up here. He had to leave home to go to a hospital some distance away. There was very little difference in his coming up to St. Anne's and going into

[Dr. F. W. Blakeman.]



the Veterans' Administration Hospital. There was a slight slip-up in that case, in that I wrote and had that arrangement for his re-entry to the United States made. He got a certificate, it is true, but it is from the local department of immigration.

*By the Chairman:*

Q. The American Immigration?—A. Yes. We believed at that time that there was no question about his being able to return to the United States. Apparently the headquarters in Washington of the United States' Department of Labour would not accept that and when he went to return without notice—he left the hospital and without notice went to return—they turned him back. But I am quite sure I can arrange for his return to the United States at any time when his treatment is completed.

Q. Why not return him now?—A. We prefer to try and complete this man's treatment. He is making very good progress towards a cure for tuberculosis.

*By Mr. MacNeil:*

Q. The point is he is separated from his family?—A. He would be separated down there, I may say; and not only that, his wife has been up to visit him. It is not so very much farther.

*By the Chairman:*

Q. At our expense?—A. No. We did not bring her up at our expense.

*By Mr. MacNeil:*

Q. A letter which he has received from the United States' Department of Labour says:—

Dear Sir,—The secretary of labour has affirmed the excluding decision of the board of special inquiry at this port in your case, and it will therefore be unlawful for you to enter the United States. If found therein unlawfully, you will be subject to arrest and deportation.

A. What date is that?

Q. It is dated June 18, 1935.—A. I think, as I said before, that I have means of having it arranged; if I put the case before the United States Department of Labour, it will be all right. I have had arrangements made in other cases for exactly the same thing.

Q. When I was down in United States in Portland—A. As I say, that was a separate case, a case where we actually had a permission for his re-entry to the United States on completion of treatment, but unfortunately we did not know at that time that the local immigration officers had not—the local American immigration officers had not the authority to issue the certificates. That is the only case. We do not follow that procedure now at all.

Q. At a meeting of the Canadian veterans in the United States in the state of Oregon this seemed to be the point at issue with them, that some pressure is being exercised in the states of Oregon and Washington on Canadian pensioners requiring treatment to return to Vancouver, and in almost every instance they got into trouble with the immigration authority.—A. I do not think so. I have a written assurance not only from the United States Department of Labour but from our own immigration that that man will be acceptable for entry in the United States and he will be acceptable for return to the United States on completion of treatment. We get that every time; there should be no question. It is true we have two immigration ports there, one by water and one by land. Sometimes if they go the other way they may have an hour or so delay, but I do not think there is any trouble there now.

Q. Would there be any objection on the part of the department in permitting him to elect whether he should receive treatment in the United States or in

Canada—A. He has that election now, has always had, if he refuses to come up here.

Q. You would not withhold treatment in the United States?—A. No.

Q. That is the assurance which I desired.—A. Oh, no. I try to persuade them to come up, yes. I think it is a good policy because I think we get better returns; and not only that, we are spending our money at home.

Q. As long as I get the assurance that no hardship would result, it is all right; because this case rather startled me. I thought the man was completely cut off from his family by reason of the action of the department.—A. No. His wife has been up several times; and we arranged for his wife to come up and visit him whenever she liked. She comes up with some friends, motors over. It is not very much farther, really, from her home to Ste. Anne's than it is up to Batavia.

Q. Have you any other case where you had difficulty with the United States Department of Labour?—A. No, I do not think there was any difficulty with any other case that I remember. That is the only one. I will say this: We had one case that was down there and we had him in hospital for three years. We became very much dissatisfied and we brought him up as an incurable case. He was supposed to have a brain tumor. We brought him up as an incurable case and put him in Ste. Anne's. When we got him up there we found it was a case of—well, I will be generous and say it was hysteria, and he did not require treatment. Unfortunately, he could not get back. We had a lot of trouble with him. As I said, that case cost us anywhere from \$5,000 to \$10,000 for treatment which was not required.

Q. Do pensioners resident in the States get the same facilities with regard to medical examination that they get in Canada?—A. Just the same.

Q. For instance, do they assess a more adequate compensation for disability, make a re-assessment?—A. That is a question for the Pension Commission; but they usually send us a certificate from the doctor about his condition, and I arrange for an examination.

*By the Chairman:*

Q. An examination by whom?—A. By the United States Veterans Association specialist. They report on it and that is turned over to the commission.

The CHAIRMAN: There is another case. Are you bringing up that other case? That is the case that was filed with us.

Mr. MACNEIL: That was the one Captain Gilman brought up and I think he wanted a full explanation as to why he took the action that he did with regard to the case. You will remember the precis by Dr. Cathcart was very critical of Dr. Gilman's action in that case.

The CHAIRMAN: Was the precis ever published?

Mr. SCAMMELL: It was not Dr. Cathcart.

The CHAIRMAN: Dr. Cathcart had nothing to do with this case.

Mr. MACNEIL: It is not the same case?

The CHAIRMAN: No. It is a T.B. case. It has nothing to do with Dr. Cathcart. I do not think any precis was put on the file by the department. I think I showed you a precis and I showed one to two or three other members of the committee. Dr. Blakeman has the particulars, if you wanted to put them on the file.

Mr. MACNEIL: Nothing has yet been placed on the file and I do not see any objection to placing this on the file.

The CHAIRMAN: All that was placed on the file was Captain Gilman's statement. Is there anything else to be brought out? If not, we shall close until Wednesday.

[Dr. F. W. Blakeman.]

## APPENDIX "A"

On numerous occasions during the recent campaign, and also since the campaign, almost steadily from the time of the election until now representations on behalf of returned soldiers have been made to me, which I have promised to lay before this committee.

A document which is the basis of my representations was endorsed by somewhere in the neighbourhood of 2,000 or 2,500 returned soldiers of Winnipeg.

1. In the first place these men express their desire for an "immediate return to veteran policies and relief schedules in force prior to 1930." The representations which were made, as I have indicated, were to the effect that veterans' legislation made effective in 1929 or 1930, legislation passed by the Liberal Administration, and put into force by the succeeding administration, was in general considered fair and just by the men affected thereby.

In effect what is desired is that subsequent legislation adversely affecting the condition as it existed about 1930 should be in effect wiped out and as near as possible (making allowance for some changes in condition perhaps), the situation of 1929 and 1930 should be restored.

I may add that it seems to me the consensus of opinion among the returned men in my own constituency and, I think, other constituencies of Winnipeg is that many difficulties of the last five years might be termed failures in respect to the administration of the laws rather than something lacking in the laws themselves. If such be the case, it is probable that administrative failures take their rise from the well known tendency of bureaucrats to take their cue from the head of the department, in this case the Minister of the Crown. In so far as such be the case I am confident all will agree the administration will undergo a change, since, in taking their cue from the Minister now, the policy which will result will be very greatly more favourable to the returned men than formerly.

2. Another point which I should like to emphasize very particularly is the need of providing medical attention for dependents of pensioners on relief. The situation in respect to this is not, I know, the same in all parts of Canada. For instance, it is my understanding that in Ontario there is no problem in this respect at all because the Ontario Government supplies the medical relief to such dependents the same as it supplies it to the dependents of other persons on ordinary unemployment relief.

In Manitoba the situation is different. The returned soldier, pensioner, out-of-work, early became a charge of the Dominion Government and he did not receive tri-government relief at all, but he received his relief from the Dominion Government through the Department of Pensions and Health. After some time the need of a regular medical relief system for unemployed people was seen by the municipalities and the provincial government, and a system was worked out whereby medical relief for dependents of people on unemployment relief could be obtained from any doctor in the province. The municipal and provincial governments have a special arrangement with the medical profession respecting payment for such cases.

Now, referring to the dependents of returned soldiers on relief the situation is that they do not get any ordinary relief from the province and municipality; they simply have no relation with these two bodies; these bodies do not and never did consider them a charge upon them; they are entirely the wards of the Dominion Government. Hence, since they do not get shoes, food, wood, coal, caps, or shoe laces except from the Dominion Government the municipalities and the province consider that the medical relief should come from the Dominion Government the same as these other items of relief.



I urge most strongly that medical attention is just as much a necessary relief item as is nourishment of the body. It is even possibly injurious to give food to a person in, perhaps, dangerous need of medical attention for the stomach. Further, if this Government agrees that unemployed pensioners are the charge of this Government for unemployment relief, then this Government ought to give medical relief just the same as it gives ordinary relief.

I may say that when I was administering unemployment relief in the city of Winnipeg I was placed in the ividious position of granting medical relief sometimes to people who were the dependents of alien, active enemies of Canada in the Great War, and in the next breath refusing it to the dependents of those who had returned from France with honourable wounds suffered in the course of the Great War. Such can be, and doubtless is the experience of those administering relief in the various municipalities of Manitoba to-day.

I may say I do not care personally, and I do not suppose most people care whether this medical relief is given by the Dominion pension authorities or not. The imperative point is to get it settled quickly, that when a pensioner is on relief getting his relief from the Dominion Government in the way indicated, there will not be any doubt about his opportunity of getting medical relief for his dependents and there will not be any difficulty in obtaining it; for when medical relief is necessary the lack of it becomes dangerous. As a matter of fact there is on record already one authenticated case of a returned soldier pensioner's small child dying because this man could not get medical relief due to the difficulties already mentioned. In this particular case it may have been that had the man done certain things, taken certain steps, or made certain applications the relief could have been got and the boy's life saved, but owing to the uncertainty and difficulty and the various bars that were raised in front of him, he did not get the medical relief and the result as a consequence was that his boy died.

I submit that the certainty of medical relief for dependents of pensioners on relief could be obtained to the entire satisfaction of all by:—

- (a) The Department ruling for the guidance of its relief officials that medical relief when necessary for such dependents shall be granted in the same way that any other relief is given, or
- (b) By the Department indicating to the municipalities that the doctors who serve the relief people of the municipalities should, whenever occasion arises, serve the dependents of pensioners on relief in the same way that they do now serve the dependents of ordinary unemployment relief recipients, and that the Department will pay to the municipalities, through the provincial governments, of course, the proper proportion of any such expenditure, or
- (c) A grant of money paid by this government estimated as being sufficient to the provincial government for distribution in proper proportion by the provincial government to the municipalities for the purpose of having the municipalities look after these pensioners.

3. One representation that has been made is the implementation forthwith of the Hyndman Report, as an initial step, with the understanding that legislation in respect thereto should be amended as a complete re-survey of the veteran problems may indicate.

I refrain from particularly presenting this recommendation on account of the fact that from my reading of the proceedings of the Committee, and particularly from the evidence of Mr. Justice Hyndman himself, it would appear that the intention is clearly to implement all that is best and most valuable in that report and because Bill 28 provides the machinery for a concerted effort to really do something for the unemployed ex-service man. I am sure that every person upon the Committee is seized of the fact that the problems of these men, particularly the unemployed of them, victims of first, the

cataclysm of the war and second, the cataclysm of this depression will require the efforts of the best brains available in their solution.

4. It has been urged strongly upon me and I now urge upon the Committee that no dependent of a pensioner should be debarred from pensions either during the life time or after the death of the pensioner, by reason of time limits, and that all time limits now in effect should be removed by an amendment to the pensions Act.

It seems to me that when this country took upon itself the responsibility of endeavouring to compensate in a monetary way, for a man's wounds incurred in the service of his country it was but logical that in thus seeking to compensate him, his country should make it clear to him that those near and dear to him would get proper compensation, without regard to the question as to when such people became near and dear to him. It seems to me to be most unreasonable and illogical to say to a pensioner that after a certain time has gone by he may not marry the woman of his choice except on the distinct understanding that after marriage, and after they have lived together for some years, perhaps, during which time she has cared for and nurtured him and been his companion, after his death she will be penniless. It is in effect to say that an injured man must know when he marries a woman he can only support her while he lives, and he can be certain of her poverty after his death.

It is a matter of gratification to learn from the proceedings of this Committee of the proposal to eliminate the 10 year limitation with respect to widows of pensioners with 80 per cent or more disability, and I would urge that all time limits and all restrictions of the kind indicated should likewise be removed.

5. During this depression a great many policies of insurance obtained under the "Returned Soldiers Insurance Act" have lapsed, or the holder of the policy has been forced to turn them in for cash and I would urge the re-opening of this Act for insurance application for a period of, say, 2 years in order to permit many veterans to take advantage of it. It will be readily agreed that there are many cases where during the life time of the Act veterans were unable, due to financial and other reasons to take advantage of it and that in some cases the necessity of the insurance did not exist but has in the meantime developed, and further that there have been lapsations and surrenders already noted; so that it is no more than a matter of justice to re-open the Act to the soldier for a period.

6. We have, at the present time, the law that when Government contracts are awarded for construction or institutional supplies, firms obtaining the contract must employ ex-service men to the extent of 15 per cent of their staff. In my opinion this might well be raised to 20 per cent. The body that will be set up to assist in the employment of returned men might well give this further consideration, but I think it should, at all times, and as long as returned soldiers last, be brought home to employers of labour who serve in any way the Government of Canada that there is always a duty upon them of employing men who were in the country's army during the Great War.

7. Finally, I would make this proposition with reference particularly to the City of Winnipeg; although it may be applicable also to other parts of the Dominion. The proposition is that the present method of clothing distribution to pensioner relief recipients should be replaced forthwith by a voucher system. Under present regulations veterans on relief may obtain clothing through the Department. The method of procedure, however, is objectionable. It is as follows:—

(1) Application to the D.S.C.R. for clothing.

(2) Attendance of an investigator at the applicant's home to check up the situation.

- (3) If the report is favourable, applicant is notified by mail on a post card to call at clothing headquarters.
- (4) On arrival he presents the card and a parcel is handed to him.

It will be observed that what is done is that the applicant states what he wants, say a pair of shoes for his wife. Then, when this is granted, he goes and gets a parcel which undoubtedly is a pair of shoes for a woman. They may fit his wife; he has not had any opportunity of checking the size or suitability in other respects of the article. If it be wrong he has to make a further trip to the Department in order to change various articles. That much is enough to indicate to you that there is a great deal of unnecessary running around and unnecessary vexation in connection with the granting of an item of relief which it is admitted, should, under proper circumstances, be granted. This procedure is out of line with relief procedure affecting other recipients. In general, the voucher system is used, and I may say does not cost any more and probably is a little cheaper. The applicant gets what is necessary and what is agreed to be necessary with a minimum of friction and vexation to all concerned. The one method is logical, sensible and reasonable, but the method at present in force cannot be so described.

RALPH MAYBANK, M.P.,  
Winnipeg South Centre.



## APPENDIX "B"

## MEMORANDUM REGARDING PRISONERS-OF-WAR

During the course of the submission of evidence before the Special Committee on Pensions and Returned Soldiers' Problems, the Chairman directed (see pages 289 and 492) that an effort be made to secure additional information regarding members of the Canadian Expeditionary Force who were taken prisoner-of-war. In compliance therewith the following is submitted:—

## PRISONERS-OF-WAR C.E.F.

(Supplied by the Department of National Defence)

Total number taken prisoner.....	3,846	
Died while prisoners (a) from wounds.....	265	
(b) from disease.....	103	
	<hr/>	
	368	368
		<hr/>
		3,478
		<hr/>

Of the 3,478 who were repatriated and subsequently were discharged from the C.E.F.:—

The persons who had not been wounded numbered.....	2,084
" " " " been wounded numbered.....	1,394

Owing to the limited time, the records of the 3,478 persons who had been prisoners-of-war at the time of their discharge from the army could not be obtained and analyzed.

As the names of these persons are grouped in the records of the Department of National Defence under the units with which they served, it was decided to extract the names of those who were taken prisoners-of-war while serving with the 3rd Battalion of the C.E.F. It might reasonably be assumed that any statistics arising out of the records of the prisoners-of-war of the 3rd Battalion, which belonged to the 1st Division and which suffered many casualties and lost persons at the Second Battle of Ypres, would constitute a cross section of the records of all prisoners. The records of these men with the Department of Pensions and National Health were examined and the following information was obtained:—

Of the 261 former members of the 3rd Battalion who were prisoners-of-war:—

- 110 have made no application for pension;
- 83 are in receipt of pension;
- 3 are in hospital and have entitlement to pension;
- 12 received pension in the form of final payment or gratuity;
- 22 who were in receipt of pension have died;
- 5 were found to have no disability;
- 8 are awaiting hearings;
- 18 were not granted pension.

From the above it will be seen that out of 151 applications for pension, entitlement was granted in 127 cases. Among the latter there is definite evidence that the adjudicating bodies have taken into consideration hardships endured by the prisoners-of-war and, in a number of cases, it is expressly stated that

the "benefit of the doubt" was applied in favour of the applicant, such as the following:—

"Taking into account youth of applicant, absence of military records while P.O.W. This is a case where the benefit of the doubt should be given."

"General weakness due to exposure and poor nourishment while a prisoner in Germany."

"Extract from war diary while P.O.W.—I am going very deaf and blame the cannonading at Ypres."

"T.B. from sleeping on cement floor while P.O.W."

"General weakness from exposure and lack of nourishment while P.O.W."

"V.D.H.—P.O.W. 3 years 7 months."

"Neurasthenia—benefit of doubt."

Of the 83 in receipt of pension:—

62	are assessed between 5 per cent and 45 per cent and
20	" " " 50 per cent and 100 per cent.

On referring to the reports of the Pugsley, Freil and McDougal Commissions on Reparations, it was found that of the 261 prisoners of the 3rd Battalion 100 submitted claims which were disposed of as follows:—

24	—allowed and awards made;
66	—disallowed;
8	—claimants did not appear;
2	—claims were withdrawn.

Of the 24 awards made—

1	—was for \$5,000.
1	— " " \$15,000.
22	—were for amounts from \$500 to \$1,000.

Submitted by direction.

R. J. DIXON,  
Department of Pensions and National Health.













BINDING SECT. JUL 2 1980

GOVT PUBNS



